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ABSTRACT

Proceedings of the National Conference on the Impact of Collective Bargaining on the Quality of Education Today are presented. Among the contents are the following papers: "The Importance of Improving the Quality of Education in Our Schools," by Laura Clausen: "Quality Education, Collective Bargaining and Social Equity," by Richard deLone: and "The Effect of Collective Bargaining on the Quality of Education," by Robert Doherty. Panel discussions concerning Doherty's and deLone's addresses are included. In addition, six workshops were held on the following topics: collective bargaining and academic freedom: Proposition 13 and its impact on collective bargaining: alternatives to the bilateral model: collective bargaining in higher education: how to improve the collective bargaining process: and the impact of collective bargaining on the quality of education today. A question and answer period followed each of the workshops and panel presentations: edited portions of those sessions are included. Laura Clausen's analysis suggests that collective bargaining has already affected governance structure and quality education. On the other hand, Richard deLone argues that there is not much relationship between quality education and collective bargaining, but also predicts that quality education is only possible if social justice exists. Robert Doherty posits that collective bargaining is not solely responsible for the decline in school achievement and increase in per pupil costs, but nevertheless feels it has contributed to these things. (SW)

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Center for
the Study of
Collective Bargaining
in Education

School of Education
University of
Massachusetts
at Amherst

Proceedings of the National Conference on The Impact of Collective Bargaining on the Quality of Education Today

December 2-4, 1979

Editor: Jacqueline A. Young

HE 013 344

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IMPACT OF COLLECTIVE BARGAINING ON THE
QUALITY OF EDUCATION TODAY

PROCEEDINGS FROM THE SCHOOL OF EDUCATION'S CENTER FOR THE STUDY OF COLLECTIVE BARGAINING IN EDUCATION'S NATIONAL CONFERENCE AT THE UNIVERSITY OF MASSACHUSETTS, AMHERST

DECEMBER 2-4, 1979

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SCHOOL OF EDUCATION'S
CENTER FOR THE STUDY OF
COLLECTIVE BARGAINING IN EDUCATION

In cooperation with the Labor Relations and Research Center, the School of Education and the School of Business Administration, University of Massachusetts.

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GOALS: The goal of the Center is to assist those in public education with the planning and conduct of all phases of collective bargaining. This will be done through the development of new and effective negotiating techniques: inservice and preservice training of individual teachers and teacher organizations, school and public administrators, and school board members; the conduct of primary research; and the maintenance of a clearinghouse and informational service for bargaining in public education.

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Preface

The proceedings of the national conference on the "Impact of Collective Bargaining on the Quality of Education Today" consist of three keynote addresses presented by Laura B. Clausen, Chancellor of Board of Higher Education, Commonwealth of Massachusetts; Richard H. deLone, Executive Vice-President of the Corporation of Public-Private Ventures, and a well-known writer on educational issues; and Robert E. Doherty, Associate Dean of Academic Programs at Cornell University's School of Industrial and Labor Relations, and author of several books and articles on collective bargaining in the public sector.

Panel discussions followed both Doherty's and deLone's address. Discussants consisted of representatives from labor, management, academia and the public whose diversity and richness of opinion contributed a great deal to the conference.

In addition, six workshops were held on the following topics: collective bargaining and academic freedom; Proposition 13 and its impact on Collective Bargaining; alternatives to the bilateral model; collective bargaining in higher education; how to improve the collective bargaining process; and the impact of collective bargaining on the quality of education today. A question and answer period followed each of the workshops and panel presentations. Edited portions of those sessions are included in these proceedings.

The Center for the Study of Collective Bargaining in Education and this conference were made possible by a grant from the Charles Stewart Mott Foundation.

Jacqueline Young
Editor

Participants

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ROSE CLAFFEY is presently an educational consultant. A former teacher, she served as vice-president of the American Federation of Teachers from 1956-1976 and as Executive Secretary/Treasurer of the Massachusetts Federation of Teachers from 1964-1974. A well-known teacher, leader, organizer, and negotiator, Ms. Claffey served as Secretary of Elder Affairs from 1975-1977. She received her master's degree in Education from Boston University in 1947.

LAURA B. CLAUSEN currently serves as Chancellor of the Massachusetts Board of Higher Education and the Executive Director of the Massachusetts Post-secondary Education Commission. Prior to that, Ms. Clausen was Assistant Secretary in the Executive Office of Educational Affairs until her appointment as Chancellor in October 1979. She has also been employed as a research consultant for Arthur D. Little Systems, Inc., and the Urban Studies Department of Massachusetts Institute of Technology. Additionally, she has served as a past assistant to the Commissioner of the Massachusetts Department of Community Affairs, Director of Community Facilities for the Boston Model City Agency, and Chairman of the Weston Selectmen's Elderly Housing

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ANTHONY CRESSWELL is an Associate Professor in the Department of Educational Administration at the State University of New York at Albany. He is the author of numerous articles on public sector collective bargaining, as well as having co-authored the book, Collective Bargaining in Education.

RICHARD deLONE is the Acting-President of the Corporation for Public/Private Ventures, Inc., a non-profit social research organization seeking ways to combine public and private resources to solve vexing social problems. Currently, the Corporation runs two national demonstration projects for the Department of Labor and is also conducting research and planning work in economic and human resource development.

He formerly was Associate Director of the Carnegie Council on Children, a policy study commission mandated to investigate the needs of children in contemporary America and to make appropriate public policy recommendations.

Out of Mr. deLone's work as senior investigator for the Carnegie Council has come his latest book, Small Futures: Children, Inequality and the Limits of Liberal Reform, which has sparked discussion and controversy throughout the academic and political communities.

GAYLE DIXON served as a parent representative to the Rochester School District negotiating team. She is president of a local PTA unit and is a member of Parent Leadership, an advisory council to Rochester's Board of Education.

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MILES GALVIN is an Associate Professor of Labor Studies Education at Rutgers University. He is currently working on a textbook concerning contemporary labor movements for the American Federation of Labor. Formerly, he served as Director of the Labor Relations Institute at the University of Puerto Rico and served on the Governor's Commission for the Study of Collective Bargaining in the Public Sector in Puerto Rico. His writings include a book on The History of the Puerto-Rican Labor Movement.

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EDWARD P. KELLEY, Jr. is Director of ACBIS Project on Educational Employment Relations. Author and co-author of a number of the staff publications of the ACBIS, he also was co-author of the Handbook of Faculty Bargaining, Jossey-Bass publication, 1977, and contributed "State and Federal Legislation" in Campus Employment Relations, edited by T. Tice, ICLE publication, 1976. Mr. Kelley is admitted to the practice of law before all the courts of the State of New York, Commonwealth of Virginia and the District of Columbia.

MELVIN H. KING is currently Representative to the Massachusetts State Legislature from the Fourth Suffolk District, and Adjunct Professor in the Massachusetts Institute of Technology's Urban Studies and Planning Department, acting as Director of M.I.T.'s Community Fellows Program.

In addition, Mr. King is the former Executive Director of the Urban League of Greater Boston, and past member of the Executive Board of the Massachusetts Committee on Children and Youth.

THOMAS A. KOCHAN received his Ph.D. in Industrial Relations from the University of Wisconsin in 1973. From 1973 to 1980, he was on the faculty of the New York State School of Industrial and Labor Relations at Cornell University. He spent the 1979-1980 academic year on leave to the U.S. Department of Labor working with the Department to establish a stronger research agenda and program in the industrial relations area. In September, he will join the faculty at the Massachusetts Institute of Technology as a Professor of Industrial Relations.

He has done research on a variety of topics related to collective bargaining in both the public and private sectors. His books include: Dispute Resolution under Factfinding and Arbitration: An Empirical Analysis, 1979; Public Sector Labor Relations: Analysis and Reading, 1977; and *Collective Bargaining and Industrial Relations: From Theory to Policy and Practice*, 1980.

FRANCIS M. MARTIN is presently Executive Secretary/Treasurer of the Massachusetts Federation of Teachers and was formerly Field Representative for that organization. A native of Woburn, Massachusetts, and graduate of St. John's Seminary, Mr. Martin is a nine-year veteran teacher of Latin and English at Billerica Memorial High School.

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A former teacher and principal, he has worked as a labor relations consultant and has published widely in the field of public sector collective bargaining, including articles on sunshine bargaining and "Trilateral Bargaining Practices in the Public Sector Bargaining Model" in the *Phi Delta Kappan* (February 1979).

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ANTHONY E. ROSS, Director of Higher Education for the Massachusetts Teachers Association, has been an organizer and negotiator for the past twelve years. He was formerly a teacher and guidance counselor for the Pittsfield School Department.

JOHN B. RUSSO is the Director of the Labor Studies Program at Youngstown State University. He was formerly a post-doctoral research fellow at the Labor Relations and Research Center at the University of Massachusetts. He is currently a member of the Advisory Committee of the Center for the Study of Collective Bargaining in Education and has written extensively in the area of labor relations and educational policy.

CHARLOTTE P. RYAN is immediate Past-President of the Massachusetts Parent-Teacher-Student Association, and has held offices in the National PTA as Vice-President, chairman of legislative activity, organizational study, publications, and budget preparation. For several years she was chairman of the Massachusetts Educational Conference Board and board chairman of the New England Program in Teacher Education; member of the executive boards of Massachusetts Committee on Children and Youth, National Committee for Support of Public Schools, National Committee for Citizens in Education, and Options in Education; and a trustee of Goddard College.

She is a member of the policy committee of the National Assessment of Educational Progress, a trustee of the Civic Education Foundation and Education Development Center; has lectured in school finance and school/community relations at the School of Education, University of Massachusetts at Amherst and other colleges, and published books and articles in these fields.

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LARRY SIBELMAN, formerly Assistant to the President of the American Federation of Teachers with responsibility for AFT public relations and the Staff and Leadership Development Program, is now Executive Vice-President of the American Educational Television Network.

A former teacher, he served as President of the Los Angeles Teachers' Union. He is former Vice-President of the California Federation of Teachers; Vice-President of the American Federation of Teachers; and Executive Vice-President of the United Federation of Teachers in Los Angeles. He joined the AFT as Director of Field Services in 1975.

MARYLOU THEILMAN teaches education and special needs at Holyoke Community College. A veteran of fifteen years teaching in the public schools, she has been a member of the Amherst/Pelham School Committee since 1973 and Chairperson for the past three years. She is currently working toward her Ph.D. at the University of Massachusetts.

Introduction

Jacqueline A. Young, Editor

One of the major problems currently besetting American society in general, and urban societies in particular, is a widespread dissatisfaction with public education. Schools today are under attack for their alleged failure to provide both quality education and equality of education for all children.

Although dissatisfaction with the public school system is by no means a contemporary phenomenon, the early 1960's witnessed a new wave of militance. Criticism of American public education and demands for more public participation in school affairs closely paralleled demands for collective bargaining rights for teachers. Both community control advocates and teachers were struggling against the same adversary--the boards of education. Both groups wanted more input into the public school decision-making process. Thus, throughout the early stages of the community control struggle, the teachers and their unions were supportive of the goals of movement for the community control of schools. These goals seemed, according to David Selden, former president of the American Federation of Teachers, to be only an extension of the teachers' objectives: "Teachers wanted schools in which they could teach successfully, and community leaders wanted schools in which they could teach successfully, and community leaders wanted schools where children could learn. Teachers, therefore, initially viewed the community control advocates as possible allies."[1]

By late 1961, however, teachers succeeded in winning collective bargaining rights, and their alliance with community control groups quickly crumbled. As teachers gained more control over their jobs and thus school affairs through collective bargaining, the community control movement began to view the teachers' union as part of the bureaucracy and equally culpable for the school's failure to provide quality education. Thus, as America witnessed the growth of teachers' unions during the 1960's and 1970's, the debate began as to what impact collective bargaining was having on the quality of education provided by public schools.

Of equal importance is the current debate concerning what constitutes "quality." Does quality education imply simply providing the basic skills of reading, writing and arithmetic? Is quality determined by high standardized test scores? Or is it something more intangible, such as citizenship training or development of the whole person? Certainly, the definition one gives to quality education is closely tied to one's view of the world, be it conservative or radical. Many conservatives (the so-called radical right) attack the educational system for "corrupting America's youth" and not bringing God into the schools. Similarly, the radical left accuse the public school system for indoctrinating students in the ideology of Capitalism. They argue that one important purpose of schools is to prepare working-class youth to be good workers and to prepare the children of the middle class to to be good managers. Whatever the criticism of public schools, the debate closely parallels the publicity given to declining scores on standardized tests.

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[1] David Selden, "The Future of Community Participation in Education," Community Participation in Education, Carl A. Grant, ed. (Boston: Allyn and Bacon, Inc., 1979), p. 74.

The purpose of this conference was to bring together representatives from teachers' unions, management and the public to discuss issues surrounding collective bargaining in the schools and its impact, if any, on quality education. Although some researchers, such as Lorraine McDonnell and Anthony Pascal, in Organized Teachers in American Schools, conclude that, "collective bargaining does not seem to have affected significantly either classroom operations or the quality of educational services that teachers provide to students,"[2] this view is not universally held.

Laura Clausen, for example, referring to higher education, suggests that although our concept of quality is determined by changing social and economic needs and expectations about our educational system, collective bargaining has a role to play in improving and maintaining quality education. In fact, collective bargaining has already impacted on governance structure and quality education.

Robert Doherty and Richard deLone take a somewhat different view. Doherty posits that collective bargaining is not solely responsible for the decline in school achievement and increase in per pupil costs, but nevertheless feels it has contributed to these things. He further states that there exists a "greater likelihood that collective bargaining contains a potential for mischief than there is that it is a force for good."

The panel reactors to Doherty's paper were not in total agreement with his thesis. Rose Claffey argues that there is no relationship between collective bargaining and declining standardized test scores. She further posits that collective bargaining can only improve quality education if the scope of bargaining is enlarged. Miles Galvin, too, in defending teacher collective bargaining, places the blame for declining quality education on both the limited scope of bargaining and the lack of money and resources invested in schools.

Donald Frizzle agrees in part with Doherty's contention that collective bargaining has a potential for mischief, but stresses that collective bargaining is "one possible pathway" to quality education by dealing with class size, teacher evaluation and salaries. According to Frizzle, the main obstacle to achieving quality education is not collective bargaining, but rather the "New Right."

DeLone, taking a somewhat different approach, discusses the relationship between collective bargaining, quality education and social justice. In his keynote address, he not only argues that there is not much relationship between quality education and collective bargaining, but also predicts that quality education is only possible if social justice exists. Similarly, collective bargaining can only contribute to the goal of quality education if, and when, social inequalities are eliminated.

Patricia Corcoran disagrees with deLone and argues instead that educational reform can precede the reform of society. She further stresses that collective bargaining can be used as a lever to improve education, especially if parents learn to utilize the collective bargaining agreement, and pressure both unions and management to work towards certain educational goals.

Anthony Cresswell is not so optimistic. He posits that in the realm of both education and collective bargaining, sufficient incentives to promote quality do not exist. Perhaps collective bargaining can be used to promote quality, but Cresswell suggests that reform is definitely needed in order to accomplish this task.

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[2] Lorraine McDonnell and Anthony Pascal, Organized Teachers in American Schools (Santa Monica, CA: Rand, 1979), p. ix.

Janet Rifkin and Representative Melvin King take a somewhat more radical position. Rifkin discusses certain contradictions inherent in the collective bargaining process which reinforce conflict among parents, teachers, students and the community. Similarly, King argues that our social and economic system must be changed if this society is ever to achieve quality education. Thus, both argue the importance of a radical restructuring of society in order to achieve quality education.

In addition to the three keynote addresses and panel discussions which followed, six workshops were held in an attempt to discuss certain other critical issues pertaining to collective bargaining and quality education.

In the workshop on collective bargaining and academic freedom, both Richard Axelrod and John Dunlop emphasize the dearth of case law dealing with academic freedom in educational institutions. Axelrod, however, argues for the right of librarians to book selection, while David Potter suggests the development of a specific policy for school systems to deal with issues of academic freedom outside of the courts.

One of the most recent and potentially dangerous issues currently facing the public sector in general, and the school systems in particular, is the taxpayers' revolt and various propositions aimed at limiting taxes. George Hill, John Russo, Larry Sibelman, and Marylou Theilman all emphasize to varying degrees that tax limitation propositions have a deleterious effect on collective bargaining and quality education. Charles Shepherd, on the other hand, in describing the politics of tax limitations in Massachusetts, argues for a realistic and workable tax-spending limitation.

Although the general theme of this conference was an investigation of the various issues pertaining to collective bargaining and quality education, the speakers at the workshop on the impact of collective bargaining on quality education gave particular attention to this issue and raised several thought-provoking questions. Frank Martin suggests that collective bargaining has improved quality education but emphasizes that the extent to which it has impacted on students is unknown. Greg Anrig, on the other hand, argues that it is a mistake to assume a connection between collective bargaining and quality education, for the purpose of collective bargaining is not to improve education, but rather to improve the wages, hours and working conditions of organized employees. According to Anrig, the real test of collective bargaining lies in the future--when unions will be forced to deal with issues such as reduction-in-force, teacher evaluation and regaining the public's confidence.

All of the workshops, except collective bargaining in higher education, focused mainly on elementary and secondary schools. Although there exists similarities between collective bargaining in K-12 and higher education, there are, indeed, certain issues which are unique to higher education. Edward Kelley focuses on some of these issues in his discussion on the emerging effects of academic collective bargaining--particular, the movement toward a contractual guarantee of shared governance and increased participation by faculty in institutional decision-making. Tony Ross raises a similar question--what is the best way to resolve problems which occur when both a collective bargaining agreement and a faculty senate exist? James Begin, on the other hand, focuses his remarks on the impact of faculty bargaining on relationships within academic institutions and concludes that the literature on the impact of faculty bargaining thus far does not support the expectation that relationships are always adversarial under collective bargaining.

A major concern that has emerged from the current crisis in education is the extent to which parents and citizens should be involved in school decision-making in general and the collective bargaining process in particular. However, those involved in the movement for more public participation in school decision-making are by no means united in their demands. Some fight with missionary zeal for their "right" to total community control over the schools (curriculum, budget, personnel selection); others merely desire more public participation in the decision-making process.

Although researchers are far from united in their opinions as to what impact increased community and parent participation will have on student performance, those who advocate more participation continue to make their demands on the power structure. With the rise of collective bargaining in the public sector and the concurrent rise of teachers' unions, those in power are now perceived by public access advocates to be not only the school establishment (school boards and administrators) but also the union establishment (teachers and their unions). Through collective bargaining and political action, teachers have achieved a large measure of autonomy and a greater share in educational decision-making in several states. Power over how schools are run, therefore, is now shared, albeit unequally, by the school committee and the union.

However compelling the arguments may be in favor of augmenting community and parent participation in educational decision-making, the fact remains that in all states with comprehensive public sector collective bargaining laws, no provisions exist in the laws that would allow any direct community involvement in the negotiation process other than through their representation by the school committee. Furthermore, in most of these states, bargaining behind closed doors is permitted. However, in response to demands for eliminating government secrecy, some states have enacted sunshine laws, which mandate that government proceedings be open to the public. The question of whether sunshine laws apply to contract negotiations is determined by the courts or legislatures of individual states. In Massachusetts there is an open meeting law, but it specifically excludes collective bargaining behind closed doors. Thus, as both teachers' unions and community activists fight for more control over educational decisions, the question remains: What should be the scope of community involvement in the public school collective bargaining process?

It is within this context that participants in the workshop on alternatives to the bilateral model raised several thought-provoking, and at times controversial, issues. While Margaret Jacques and John Pisapia argue for sunshine bargaining, Gayle Dixon, referring to her experience as a parent representative on management's team, recommends that same procedure for achieving more parental access to negotiations. Charlotte Ryan, on the other hand, suggests a collaborative model of collective bargaining, built on trust, in which the union and the school committee can solve their problems by working together. Henry Allen, however, arguing that school committees are not always representative of parents with children in public schools, seeks an alternative to bilateral negotiations. He suggests that the interests of parents and students will be better met if parents sit on the union's team during negotiations.

The awesome task of making recommendations to improve collective bargaining in the public sector rests with George Shea, Thomas Kochan and Ellen Kehoe. Shea, with years of experience as union counsel, charges that no true collective bargaining relationships exists in public education anywhere in this country. If collective bargaining is to be improved, public employees must be given more rights in the process. Kehoe takes a somewhat different approach. After examining the need for a more precise definition of what should be bargained, she suggests mandating a wider scope of bargaining in the public sector.

As we enter the second generation of collective bargaining in the public sector, Kochan predicts that the public will continue to make its demands felt on labor management relations. In our environment of fiscal austerity and shrinking resources, management has taken the offensive, and unions are now struggling to hold on to what they have. Within this context, Kochan emphasizes the role of the superintendent. in managing conflict and asserts that one way collective bargaining can be improved is if management accepts the process and the reality that power is now shared. According to Kochan, the quality of education suffers if unions and management fail to resolve their differences quickly.

The reader of these proceedings will undoubtedly find little unanimity among the speakers at this conference. Each participant, representing unions, management or the public, brought his/her own unique experiences and opinions in discussing what impact, if any, collective bargaining is having on the quality of education today. It was not our hope to find definitive answers to the complex problems besetting American public education. We sought only to raise issues, debate ideas, and discuss solutions in a non-adversarial, collegial environment. It is hoped that our increased knowledge of and sensitivity to the concerns, expectations and desires of all who attended will help pave the way to a greater understanding of collective bargaining in public education and will encourage all who are concerned with quality education to work togther to make our schools a place in which children can effectively learn.

Importance of Improving the Quality of Education in Our Schools

Laura B. Clausen

I am going to begin by reading you a couple of poems. They are by Shel Silverstein. Some of you may know him as the satirist who writes for Playboy from time to time. Others of you may know him as the author of a children's poem book called "Where the Sidewalk Ends." The source should be apparent as I read them to you. The first poem is called "Alice."

> She drank from a bottle called drink me
> And up she grew so tall
> She ate from a plate called taste me
> And down she shrank so small
> And so she changed
> While other folks never tried nothing at all.

The second one is called "Eighteen Flavors."

> Eighteen luscious, scrumptious flavors
> Chocolate, lime, and cherry
> Coffee, pumpkin, fudge banana
> Caramel, cream and boisenberry
> Rocky road and toasted almonds
> Butterscotch, vanilla drip
> Butter brickle, apple ripple,
> Coconut and mocha chip
> Brandy peach and lemon custard
> Each scoop lovely, smooth and round
> Tallest ice cream cone in town
> Lying there on the ground.

Change and quality are probably two of the most difficult things to produce in our society and more difficult to produce during a period of declining resources than in a period of growth.

In the 1950's and 60's there were factors that created major change in our higher education scene. I think the social and intellectual elitism of a college education in America faded into oblivion as did the traditional lack of federal interest in our local educational affairs. The post World War II baby boom provided students in record numbers for campuses and necessitated new facilities, larger facilities, and in fact more of everything and as quickly as possible. Federal dollars for research in science and technology which had begun to trickle down to universities during World War II increased into a mighty flow with the advent of Sputnik as evidence of Soviet research capacity. And a new recognition of a nationalism and of a need to prepare Americans to meet an expanded world promoted similar federal expenditures. The Civil Rights Movement in the 1960's produced legislation mandating equal educational opportunity in providing funding for new student constituencies. The women's movement began to open yet other educational doors. I would venture that higher education in America will never be the same.

It was against this background that the Massachusetts Board of Higher Education was created in 1965, with the passage of the Willis-Harrington Act. Today, the Board's major functions include authorzing of new degrees in public institutions, review of annual budget and capital outlay requests for public higher education, and the submission of budget recommendations for the Governor and the General Court. In addition we administer the State Scholarship Program, issue affirmative action regulations for public higher education and provide information relative to higher education to the general public, state and federal government and academic community.

The Board consists of a staff of approximately thirty people, and clearly we have to make decisions which impact on quality. This is particularly true in our program review function, as well as in our budget allocation decisions. Quality is difficult to define as it is not a static concept. It's obviously impacted by the emergence of new needs. Such factors as nontraditional modes of delivery, and the increasingly heterogeneous student population that we serve, changing social and economic needs and changing expectations about our educational system, all impact on our concept of quality.

I think that on-going dialogue about what constitutes quality is a very healthy debate and should never cease. At the same time I think it is a major cop-out for any of us in positions such as myself to state that we can't define quality fairly. Operationally, we make decisions which have assumptions built into them about quality and therefore I think we should be explicit about our assumptions. For example, in our program review process, when our staff looks at graduate program proposals, there are quite a few factors that we consider. We examine the objectives of the program to see if they are clearly defined, and also if the design of the program is appropriate to the need that is to be addressed. We ask if it is clear what knowledge and skills are to be required and if there are appropriate admission standards. Is there a judicious procedure for testing and evaluating the skills and experiential learning or diagnosing deficiencies? Is there an intellectually honest and coherent-sequential curriculum involved? Do we have procedures for identifying and establishing required proficiencies such as language comprehension, statistical skills, and so forth?

We also look at the delivery stem. Is there adequate provision for facilities? Are there appropriate resources available? For example, is there access to adequate academic and career counseling? Does the faculty possess the appropriate credentials, and is there a sufficient proportion of faculty in full-time positions? Is there access to academic support facilities including library collections, laboratory research sites and so forth. Are there clearly delineated lines on administrative and decision-making responsibility? Are there adequate fiscal resources for the program? Are there procedures for ongoing evaluation and development of program design and delivery? These are some of the factors that contribute to the quality of a program and which we look at when considering whether or not to improve a new program in one of our public institutions.

It is interesting to note that we do not have the authority to review existing programs. The Board was created in a period of growth. However, when we are now in a period of maintenance or retrenchment this is a conspicuous oversight.

I think our problem in education has not been so much an inability to define quality but an inability to produce it at times. Why? First of all, let me say I get irritated when I hear people make blanket statements about our problems in education today as if all schools are in great trouble. I think we have schools that are doing an excellent job of educating, I think that there are other schools that are doing a very poor job, and obviously there are those in between. I do not wish to sound as if there is any magic litmus test one can apply, but I do think that there is a great deal in our present system which mitigates against the production of quality. This ranges anywhere from the stress of inadequate resources, and from the problem of conflicting objectives, to inadequate planning and lack of institutional incentives or worse the disincentives that currently exist for improving quality.

Collective bargaining is a topic on which I am not an expert, and I would be very reluctant to try to sound like an expert because I know that you know far more about it than I do. My impression is that it has impacted greatly on our governance structure, particularly in higher education. Issues such as wages and work load and evaluation procedures and retrenchment have a great deal of impact on quality--perhaps more than almost any other single factor now. What happens at the collective bargaining table may influence the outcome in the future. It is my impression that we would do well in higher education to try to see what lessons have been learned in our elementary and secondary schools since initiation to union procedures there were ahead of us in higher education at least in this state. It also appears to me that in public higher education it would be to our benefit to have both strong union and strong management. This can produce very good results. But to date, I think, labor has probably outshown management by a long shot and I hope no one here will take offense to my saying that. It seems to be very difficult in the public sector to bargain in a coherent, effective fashion with labor, in large part because of the kind of the governance structure that we currently have.

In the times ahead of us it is clear that with declining enrollments and inflation we need to make some tough choices. Institutions will have to go through a very careful and painful process that will include examining their own mission and their direction both in terms of what they are now and what they should be. I am sure that those of us who have a state-wide perspective and I include members of the legislature, executive branch and people such as myself on a coordinating board level, will take a great interest in looking at the ways in which our public institutions define their missions. We can no longer afford to have everyone being everything to everyone. I think there comes a time when we have to begin to divide up the pie and make some decisions as to what mission is appropriate for each kind of institution. My feeling is that we, in education, sometimes suffer from a pecking order complex. It is very nice when you happen to be on the top of the pecking order and be considered the flagship university of the state. It is less comfortable if you feel that you are on the bottom of the pecking order and are a community college or state college which has aspirations to be something else. I hope we can reach a time when we define clearly what each kind of institution does and our energies will be spent fulfilling that mission well rather than trying to emerge and evolve into some other kind of institution. We have a diversity of needs in this state, and there is a need for diverse kinds of educational services.

Dr. Wesley Abker, at a recent convention of the National Association of State Boards of Eeucation, noted that, "if there is any one area in which state and local education agencies have limited capacities, it is in the area of strategic and long-range planning." Adam Yarmolinski put it this way in 1975 when he wrote about universities and said, "one of the more remarkable things about universities in the first three quarters of this century is that with few honorable exceptions, they have managed to survive and even to prosper without developing any conscious process for making institutional choices. Unlike businesses of comparable size, universities by and large have no effective mechanisms for translating fundamental policy decisions into resource allocation decisions. Now that universities are discovering the limits of growth, they must also learn a good deal more about the art of governance, which we have been taught is the art of choice."

I would not like to sound as if I am singling out educators. Since we have a legislator in our midst, I would also say that I think the legislative process also mitigates against long-range planning: By necessity many decisions have to be made with a short-time horizon, and often they are in the nature of crisis intervention rather than long-range planning. It is for this reason that the promise of the current reorganization commission which is about to assess the issue of public higher education in this state offers us a unique chance to look at the emerging needs and realities of the 1980's and '90's. Representative Collins will be serving on that commission, and I'm sure will be playing an active role in it. Senator Boverini chairs the commision, and it offers us an unusual chance to have legislators (there are 15 on the commission) and laymen alike (there are 10 appointees by the Governor and three exofficio members) to look at what will be the new demands facing us, and what we can do to better use the resources that we have.

What are some of these demands? Without question technologically our society will continue to become more complex and that means demands for skill training will become more complex and probably job obsolescence will continue to accelerate. We'll be an older society. The median age in 1975 was 29; it is expected to be 35 in this state in the year 2000. A majority of women will work, as they already do. I think child-rearing practices will reflect these changes. Hispanics and Blacks and Asians will represent an even larger percentage of the population, making bilingual education more important. Dwindling resources: I wish I could say that that will be an issue which will disappear. Unfortunately, I don't see there is any likelihood of that. As a nation, we have fewer natural resources, and it is unlikely that we can get a hold on inflation in the near future. Declining enrollments really create an added burden, and, if we look at the projections we have in this state, we are facing approximately a 33% decline by 1995.

Increasingly, I think education will have to vie with other social services for a piece of the fiscal pie. We cannot take for granted the fact that the state legislature will see education as necessarily the most productive place to put its dollar. In 1974, 7% of our state budget went to public higher education maintenance. In 1980 it looks like it will decline to approximately 5.8%. Unfortunately, I am not confident that trend is going to change.

Remediation obviously is another problem which we are all dealing with now. We have inherited some of our past failures in terms of our own educational system. There was a report issued by the National Center for Educational Statistics in 1979 which stated that one-fourth of all college freshmen and fifty percent of all those entering predominantly black schools required remedial work in math. I think both of those figures are startling and tell us that there is much we need to do, both at the K-12 level and at our institutions of higher education.

If quality is to be improved and maintained, I think that there are going to be some essential things that we are going to have to do, and I think the collective bargaining process is going to play a vital part in this. First of all, we must clearly articulate our educational objectives, and they must be realistic objectives. They must have some vision if they are going to meet the needs of the future. I think we cannot afford to be caught up in yesterday's battles while we are trying to meet tomorrow's needs. We need to be able to prioritize, and to me, means we need to be able to reallocate resources. This is at the heart of the problem. We need to be able to consolidate facilities when necessary to maintain quality; we need to talk about retraining faculties; we need to deal sensibly with retrenchment issues via collective bargaining; we need to be able to provide room for new blood in our system.

I am interested in the fact that SMU (Southeastern Massachusetts University) is the only public institution and university in the United States to my knowledge that has built into its collective bargaining contract the provision that under retrenchment there shall remain the same percentage of females and minorities as before the retrenchment. It is very important that we develop mechanisms so that we don't shut out those that we most want to welcome into our system.

I think that if we cannot provide the flexibility that is required to meet tomorrow's needs, there will be increasing pressure to provide education through non-traditional modes. As someone who is at a Board which must license private institutions, I am aware of the emerging interest on the part of profit-making corporations to become degree granting. Massachusetts General Hospital and Arthur D. Little already are, and I suspect this trend will increase. It is a difficult policy issue to deal with, but frankly I think the best answer to this issue is to have the institutions in which we've already made a considerable investment meet the needs of our society.

I have great hopes that the Boverini Commission will be able to effectively define the missions of our public higher education institutions, and revise the budgetary process so that in fact we can provide incentives and not disincentives to run our institutions effectively.

In the area of financial aid, I think it is clear that there will be greater pressure to increase tuitions. Therefore, we must provide an effective means of providing financial assistance to students. Coupled with a more effective delivery of financial aid, we need to do a better job of providing students with information so they can make an informed choice about what lies ahead for them at various kinds of institutions.

Collective bargaining will certainly play a central role in the future and therefore I would hope that the Commission would be able to look at what ways we might restructure or improve upon the current system in the state of Massachusetts. In that regard, I would welcome advice from those of you here today as to possibilities that we ought to consider. We are spending a lot of time on process these days in Massachusetts. While it is very frustrating for those of us who are really interested in just getting the job of education done, it is essential that we can improve this structure so that as Peter Drucker has said, "We cannot only do things right, but we can do the right things." We need to do both. We need to make sure our objectives are sound and that we have a system in which we can all function and contribute to our maximum capabilities.

Quality Education, Collective Bargaining and Social Equity

Richard H. deLone

To talk about the relationships of three issues as apparently distinct as quality education, collective bargaining, and social justice is difficult. I have spent a lot of time trying to figure out just what the relationship among those three things is. This paper deals not with conclusions, but rather with questions and concerns brought to mind as I thought about this triad of issues.

First of all, I do not think there can be anything like quality education in the full and systemic sense of that word in a society that lacks social and economic justice. By this I do not mean that kids cannot learn a lot in some schools, many schools, or even in most schools. But in the full, systemic sense of the word, I think quality education is almost a contradiction in terms of the absence of social justice, since the inequities in society are inevitably mirrored, and sometimes transmitted, through schools. I am fairly clear on that basic principle. Somewhat murkier to me, on the other hand, is the question, "What is the relationship between quality education and collective bargaining?

My first instinct is perhaps to say there really is no relationship between quality education and collective bargaining. Maybe, in fact, there should not be. Perhaps collective bargaining should be defined narrowly, as it is now practiced, as a way to settle issues about working conditions, salaries, wages, hours, and benefits for teachers and other employees in the school systems. People, including professionals, working within systems which are managerially controlled and are owned by somebody other than the workers themselves, certainly have a right, as far as I am concerned, to collectively bargain. And while good working conditions and good salary may in a certain minimal way help facilitate the production of quality education (whatever quality education is), it is also pretty apparent that they do not necessarily lead to it. We know, for instance, that teaching and learning, which have something to do with any definition of quality education, can take place in schools and out of schools, so that, in fact, there would seem to be at best a sort of tangential relationship between collective bargaining--defined as bargaining over working conditions--and quality education. And just as we know that good teaching and learning can take place under varying conditions, we also know that sometimes very well-paid teachers, working under marvelous conditions, do not do a very good job. The relationships are oblique at best.

I really have no problem, then, in saying that collective bargaining ought to be narrowly defined, and that we should not try to confuse it with the issue of quality education. The only thing that ticks at my head, I guess, is that I do know that collective bargaining in most school systems takes up an enormous amount of the time, energy, thought, and concern of most everybody involved. And something strikes me as somewhat anomalous, too, in the application of this sort of basically industrial model to school systems. Who are the adversaries sitting around at the table? The naive part of me answers that both the school board and the teachers' union ought to be on the same side; they ought to be on the side of kids, and they ought to be on the side of "quality education," whatever that means. Nor am I sure who the owners of the school system are (although they are supposed to be the taxpayers); how they are represented at the collective bargaining table (although the school board is supposed to represent them), or how they should be. Again I wonder, can quality education occur when parents (taxpayers) and teachers are adversaries? Yet in the short run, reasonable collective bargaining does still remain probably the best way to set working conditions and salaries for teachers. Whatever its imperfections, I am willing to accept a limited definition of collective bargaining in an imperfect system, and to assume that there is not much relationship between collective bargaining and quality education.

To doublecheck this perception, I decided to read a copy of the agreement between the teachers' union in Philadelphia and the Philadelphia School Board. Right up front, the agreement seemed to refute me, because in the very first paragraph it says that in addition to concern with working conditions and the narrow scope that they entail, teachers and other employees in the school system have a great deal of interest in the full range of issues that concern the quality of education. As a result, this contract speaks to a number of mechanisms which provide for a regular consultation among the superintendent, the principals, and the Federation on these matters of quality of education. I began, therefore, to wonder if I was correct in thinking that there was little relationship between these two topics. But then as I read on and began counting and quantifying things, I counted 73 pages of very fine print in the contract. I took a random sample of the number of words per page and projected out that there were roughly 38,836 words in that contract. Then I went through it clause by clause, marking those proposals that seemed to have something to do with the quality of education. There were about 874 words devoted to that topic, representing 2.6% of the total contract.

These clauses are interesting examplars of the current intersection of collective bargaining and quality education. One was the clause that guaranteed teachers the right to see the budget for an individual school after it had been approved. Another insisted that administrators should do their best to hold classroom disruptions to a minimum. Another said that class size should be held to 33, except under 6 exceptional conditions (and that, I guess, meant about a third of the classrooms in the city of Philadelphia). Another said that teachers should be represented on various curriculum and textbook committees, which I certainly agree with and which they have been in most urban school systems at least since the 1930's. Two other important clauses prescribed the time at which loudspeaker announcements were to be made during the school day. While it may sound a little bit silly and frivolous, I think what you see in this kind of clause is the perhaps well-justified reaction of teachers to the sort of frivolous, capricious, and imperial style of school management that existed in many big city school systems before the advent of collective bargaining. Then there is a clause about the removal of disruptive pupils from classrooms, and another clause that says, in effect, supplies and materials should get to the teachers when and not after they need them. Then there is a clause that spells out the various places and forms of contact that teachers do not have to have with the children in the schools: in the lunchroom, in the corridors, in the bathrooms, on the sidewalks outside the school more than one block away from the school and so forth. There are also various clauses that insist teachers will have contact with children. I read that contract very carefully, and that is all I could find in it that has anything to do with the quality of education or an instructional program. Almost everything else, as one would expect, pertains to terms of employment: hours, seniority system, transfer rights, health and welfare benefits and the rest. I felt confirmed; my a priori instinct that there was not much relationship between collective bargining and quality education was indeed correct.

As I thought about this topic, I also thought that I have had a variety of relationships to the schools and school systems. I have taught in the schools, worked in an urban school system, written about schools, and tried to study educational policy. I have also been a parent whose children go through the schools. Often when I am thinking about schools as a parent, I get angry. Because I see, for instance, my daughter come home and tell me what her health education course that day consisted of. While the teachers sat up at the desk grading papers, they copied notes off the walls. She comes home, and she tells me what her high school English class consisted of that day, which is that the day before they looked up in the dictionary forty-three obscure words, which I as a writer have managed to survive without ever using. That day, they sat in the class and discussed the meaning and definition of these words. My daughter is deciding that English is the dumbest, rottenest subject in the world, and that hurts me, as a person, as a writer, and as a parent. When I think about those things, and when I hear school board members or teachers union officials or school principals talking about quality education, I get mad. There is an irrational part of me that resents a teacher getting paid $25,000 or more a year with very generous fringe benefits for putting my daughter through that. Though one part of me knows I am over-simplifying, another part of me blames collective bargaining for over-paying and over-protecting unaccountable incompetents. That is the reaction I have, and I know it is a reaction an awful lot of people have.

In fact, I believe that one of the things which over the next few years is really going to be an issue is that there are a lot of people, particularly in urban school systems, who think that the school systems simply exist for the teachers without any reference to anything else. There is no recourse for a parent, no sense that anywhere is there a department to supervise effective instruction. One becomes very jaded and very cynical at a time when, in fact, the percentage of parents who have children enrolled in the public shools is dropping. As the enrollment drops, I think there is potential political dynamite that has to be considered. And that is a much more practical, every-day kind of issue than anything else I am going to talk about, because I realize that as an invididual parent I may be powerless to get anything changed for my daughter in that school system, but I do have some choices. If I am really unhappy with the school, I can take her out and put her in a private school. So long as I can afford that, I have choices most people do not. I realize, too, that regardless of the kind of English teacher my oldest daughter had to put up with, she is going to make it anyway. The system is really going to work for her. She got A's whether she had good teaching or bad teaching. It did not make much difference. She was able to enter an elite college and she is doing very well. She can do pretty much whatever she wants to when she gets out. If she wants to become a doctor or somebody who can get rich, she can do that; if she wants to be a scholar and live in a cave and complain about being poor, she can do that; if she wants to adopt an alternative life style (whatever that is), she can do that. She has a range of choices, and the system is going to work for her.

So when I think about those things I do not get so mad for myself or my daughter anymore, but still I get mad. I get mad thinking about the students who do not have the privileges and private resources which cushion them from uninspired and inept education. And this brings me back to the theme of social justice and to the theme of quality education as it must be considered within a broader societal context. One way of talking about it is to say that I would define quality education as much more than what is taught in school, although I think what is taught is terribly important. I have my own laundry list of things that I hope will be taught in school: Some of them are conventional basic skills, but I also think being able to read and enjoy Shakespeare is a basic skill. Even more, I think understanding how society works--and how power works in it--is a basic skill. This, which I would call civic literacy, is the most undertaught and underdeveloped skill in this society and in our school system. I do not mean civic fact; I mean civic literacy. Also, I think schools ought to provide students many more opportunities to learn how to work cooperatively and collaboratively. That is my list of basic skills. Everybody in here has his or her list. We probably agree on some items and disagree on others, but clearly, any definition of quality education has to address the question of what is to be taught. Yet that is not enough of a definition. I think quality education also has to be defined in terms of what is learned. If a student does not learn something, how can one say that it was taught? That has always puzzled me for years. Beyond that I think we have to think about the "hidden curriculum," about the way society works and the norms, values and rewards that are perpetuated by the school system. But that is still not enough.

I think that the definition of quality education also has to address the ways we decide what should be taught and what should be learned. These are not, after all, Platonic abstractions. They do take place in a changing world and dynamic political context in which there is disagreement and confusion of responsibility for determining who should be deciding what gets taught and what gets learned. It seems to me obvious that parents, and certainly older students, ought to have some say in that question. At present, they rarely get much say in these matters through the school board or school system. Nor do I know a parents' organization anywhere in the world that believes that it is truly represented in any way, shape or form by its school board. Perhaps that is because I do not live in a suburban school district where, I am told, many people have that point of view, but in the cities I know that is not the case. Parent organizations are almost always formed because parents do not think they are being represented.

It is obvious, too, that teachers should have a say in what is taught for a variety of reasons. One is that teachers (one hopes) have thought about the problem of what ought to be taught more than a lot of other people in our society. That in itself ought to earn them some right to speak at that table. Further, teachers know what they themselves are capable of teaching. That is not a negligible factor in deciding what ought to be taught. But then, of course, "society," whose taxes pay the bills (individuals and firms, other than parents), has some right to say what it wants out of the schools.

How we put those pieces together in an open decision-making process which achieves some dynamic balance among those--parents, students, teachers, and taxpayers--interests is probably as underdeveloped an area of educational enterprise as one can imagine. It is certainly a large and important piece of work. But I would finally argue that even if we settle the problem of what should be taught and learned, we still do not have an adequate definition of quality education unless you view all of these subordinate issues, as well as the principal issue of the role of the school, in a broader social context. Otherwise I do not think we are really talking about anything that I would call "quality education."

There are many ways to define the kind of society that we have, but I think that in determining the roles that schools play and what quality education might be, it is essential to understand we have a society of great inequality. The dimensions of that inequality appear scarcely to have changed at all over the years. For instance, since the end of World War II, the distribution of income has remained about the same. The top 20% of families, after taxes and after transfer payments, welfare, social security and so forth, have 42% or 43% of the overall family income; the bottom 20% have 5%-6%. Since the end of World War II, we have had a black and white employment gap which has not changed at all: The blacks have suffered unemployment rates twice those of whites. In fact, among young black youths and other minorities as well, the unemployment picture has gotten even worse over that period of time. Some 20%-25% of the population of 10 to 15 million children in this country grow up with the risk that very basic things, like health, are denied them. They live with the socially-induced stress that their families face and the breakup of the family that results from that stress. All of the dreary statistics and stories of poverty and unemployment people have heard so often remain real, so that the ultimate thing one can say about inequality and poverty in this country is that both seem always to be there, unstopped by any truly effective social policies.

The question, then, is what relationship does schooling have to this basic issue of social justice, which I define in qualitative terms: that is, does our society give everyone full membership and full participation, or does it not? I think in answering that question we end up looking at income as well as the material comforts which are important to us all and are among the fundamental reasons society is organized. We must look at how these goods are distributed and produced by this economy. We must also look at employment, because employment is the real measure of full social membership. And when we look at employment, we are looking at the work one does and the work one controls, for control (power) is the key to distribution within society. And when we look at glaring inequalities that do characterize, and long have characterized, our society, we must ask what role schools play. What role does quality education have in addressing this issue in our society. How can we have quality education if we have this degree of inequality?

Over a period of time, of course, a notion has developed in this country that indeed to some extent quality education is the antidote to inequality. The idea of this was most aptly formulated by Horace Mann a long time ago when he argued that education is "the balance wheel in the social machinery, the great equalizer in the conditions of men." And over a long period of time, we have accepted that notion, in part, I think, because we are civic illiterates without a full sense of how our social system works. Partly we have accepted it because we believe that this is not only a society dedicated to the well-being of individuals, but a society in which everything is a result of individual actions.

We have a sort of collective blindness in this society, a cultural blindness, which may be the effect of social forces, economic forces or institutional strictures on individual outcomes. We tend in much of our social theory, in much of our psychological theory, and in most of our economic theory to look at the mechanisms of our society, along with the consequences and the outcomes of our society, as if they were the product of individual actions. In doing that we tend to ignore the way in which basic structural principles such as class, race, sex, control of capital and the form and mode of production influence individual actions and individual outcomes regardless of individuals' actions. And the whole myth of meritocracy, which schools reinforce, in turn reinforces that cultural blindness. We really assume that the inequalities that exist in our society are to a large degree reflections of differences in individual skills and ability and aptitude and efforts. We assume that we have a classless society in which people rise and fall by their own hook, by their own merit, by their own abilities. We further assume that the school system cultivates abilities which cancel out any disadvantages that were inherited as a result of social status.

What we have to face now is a great deal of contrary evidence, because the school system, in truth, does as much to transmit inequality or to preserve the equilibrium of inequality in our society as it does to cancel out social inherited differences. This does not mean, of course, that children from poor families who go to Harvard Medical School are not going to do very well as adults. They are. What it does mean is that very few children who start out in that position in our society are ever going to make it through the series of gates, which is the school system, to the Harvard School of Medicine or, for that matter, to Fitchburg State College, or any of the institutions of higher education which provide access to economic power and economic well-being in our society. The school systems are a gate-keeping system, a credentialing system, designed to let some people in, and keep other people out. Most disproportionately kept out are people who come from low-income backgrounds and from minority backgrounds, which are all too often low-income backgrounds. And that is the crucial factor today. For, if you compare the chances of children born into the top tenth, you will find that the social advantage translates into about a 12-to-1 ratio of educational advantage. That is, the advantaged child is twelve times more likely than the disadvantaged to get a college education, even when their abilities--as measured on standard achievement tests, aptitude test, IQ tests, or any other personality tests--are similar.

For a variety of reasons, the school system's function in sorting and funneling people into society passes on inherited inequalities. To define such a function is to identify the schools as a great personnel office to the corporate state. I do not believe we can separate that function from any definition of quality education, because it is one of the social consequences of schooling which has to be part of any definition of the quality of education. And schools are always, I suspect, going to be to some extent sorting and selecting mechanisms. It is easy enough to imagine definitions of schooling and visions of schooling to get beyond that. It is very hard, on the other hand, to imagine any real school not performing, at least in part, a sorting and selecting function in the society. And in fact that is a perfectly proper function for schools to play. I might even argue that in many cases schools play it well. However, if the game starts out as rigged by socially created differences and disadvantages, particularly in the case of race and sex, quality education cannot be the game's objective, certainly not if by "quality" we mean, as I do, real equality of opportunity (to use the comfortable phrase) or equality of condition (to use a phrase uncomfortable to many people).

An important prerequisite to a just society is a school system which functions in an even-handed way and is neutral to the social origins of all children. That is the foundation of quality education, which in itself cannot be defined outside a context of social justice. In any other context, we will have a school system serving kids from one class, one race, and one sex better than anybody else. It will be controlled by representatives of the most powerful class and group in society and will work to serve their interests. A sort of ideological apology for the status quo will, indeed, be developed. An example is the meritocratic ideology which serves as the intellectual resolution we have adopted for the inequalities which continue to persist in our society. But we are still not going to have produced anything one could call "quality education."

Let us come back to the question of collective bargaining's relationship to education. If we accept that large definition, then again we seem to be back to my original position that collective bargaining cannot have much to do with quality education. Teachers' unions and school boards sitting around the bargaining table cannot produce social justice through the bargaining mechanism, and I would not expect them even to try. They do have to go back and deal with issues of working conditions, but that is all they can expect to do. If we were able to reach a society in which inequalities were considerably less, in which the disparities in power which now exist were eroded, we might then achieve conditions in which, in an expanded sense, perhaps a metaphoric sense, collective bargaining would have some pertinence to quality education. I think that would be the point at which we could return to the issue of just who sits down at the table to decide, not so much what the working conditions of teachers will be, but what the educational conditions of children will be. And that is another way of coming at that question of quality education. In a society in which there is proximate equality of economic resources and power, it might even be possible to talk about alternatives to, extensions of, or variations on the theme of collective bargaining: that is, about a less adversarial and more dialogic process involving teachers, parents, and representatives of society. The process might further evolve to a level much closer to the individual school or even to the individual classroom than current models of collective bargaining. In a just society, we might now be able to sit down and negotiate quality education, close to the child, close to the parent, close to the classroom, in a fashion that either supplements the current restricted version of collective bargaining--or renders it obsolete.

Reactors

Patricia Bounds Corcoran

As a parent who has been active for the past five years working for quality integrated education in Boston Public Schools, which I see as a means towards equalizing opportunity after graduation, I am somewhat dismayed by deLone's thesis that we first have to reform society itself before we can reform education. Naturally, I must reject that premise or else I would be saying that our past effort has all been wasted. To carry deLone's thesis to its admittedly illogical extensions, we would first have to attain full employment, effective affirmative action, and a decent income for all before we could begin to achieve any educational reform.

However, the above comment should not negate the important message that Mr. deLone brings us. Educational reform is, indeed, limited by society. We see this in Boston almost daily, where society has thrust upon school children the burden of solving its racial ills, and then has abandoned them, even attacked them, and finally blamed them for the problem itself. This is not to deny the fact that even an educated minority person has a difficult time finding equal employment. However, without an education, what opportunity will he/she find at all?

Reform must start somewhere and I submit to you that education is a valid first step. Education has been a proven route to equality for many people: immigrants, ethnic groups, blacks, and members of all those groups sometimes derided as the "middle class."

The perspective I bring to this conference is that of a parent working through the Boston City-Wide Parent Advisory Council, an umbrella organization for 160 parent councils, with a goal of "quality integrated education." Ours is not a small operation. We have councils in each school, a district council in each district, a staff of over 25 people, and an annual budget of $700,000. In spite of these people, and an annual budget of $700,000. In spite of these resources, we have not yet accomplished educational reform equal to our 6-year effort. Perhaps this is an example of the limits of liberal reform and it probably is to some extent. It reflects our emphasis on the integration part of our goal and a corresponding societal reaction against this. In order to realize our common desire that our children be well educated, we seek some action, some lever that will actually improve education. Does the collective bargaining process offer such opportunity? I think it does.

I want to focus now on children, inequality and the possibilities for educational reform through parent influence on collective bargaining agreements, and indeed, also discuss the limits or problems parents may encounter in trying to do this.

We consider parent involvement critical both to quality education and to equality. Interaction between parent and teacher gives both new perspectives on the child. Interaction between staff and parents of differing race is crucial to understanding the child. Parents of all groups as people vitally concerned with the welfare of their children want a voice in who teaches them and how they are taught. Contract terms directly impact access by, and the power of, parents.

For instance, a clause defining the teacher's work day can prevent or provide routine parent access after class. The number and times set for "open house" greatly affect parent access. Evening meeting times are needed by most working parents. The custodians' contract affects the hours a school can be kept open without overtime and how late a building is open at all. Principals' contracts affect their attendance at parent meetings and their availability for conferences.

Other items in the teachers' contract which affect the quality of education include the length of the child's school day; the ways in which teachers are evaluated and selected and whether parents have a voice in this evaluation; the way in which incompetence is handled; class size; tenure and seniority rights in schools, in programs, in subject areas; transfer rights; classroom access for monitoring by parent groups.

The above list shows how great the possibilities are of leveraging quality in education through affecting what may be a few lines in a contract. Simple things dismissed as "working conditions" can be very important to education.

Whether the effort parents put forth in attempting to influence the collective bargaining agreement will have severely limited results can only be known after the fact. The problems include the delicate one of a third party "pushing" to the appropriate, effective degree on both "sides" to achieve an item without alienating either side too much to achieve the next item and without contributing to a strike or a huge budget! The time needed to take part in this effort is pursued "at the table" is a real constraint. A Boston school department official estimates that the last Boston Teachers Union contract negotiations took 60 meetings over a three-month period, a time schedule beyond the capacity of most volunteers.

In these days of declining enrollment and galloping inflation, parents want to be part of the decisions that, in order to keep costs and taxes down, may trade-off educational items for employee benefits. Do we want fewer teachers for higher wages, larger classes for more fringe benefits, closed schools or shorter days? These are hard decisions but we must be involved in them if we are interested in producing education reform that leads to society equality. Collective bargaining offers us a promising tool in this effort.

Anthony Cresswell

Have you ever seen in a child's book or magazine the puzzle called "What's Wrong with This Picture?" It contains pictures of a goldfish with ears, or a cat walking on the ceiling, or a pig with argyle socks. I really loved game as a kid, and it was the first thing that came to mind during the first five minutes of what was a marvelous and very provocative speech. I kept asking myself, "What's wrong with this picture?" but was unable to find very much wrong. It is rare that I find somebody speaking about collective bargaining and quality of education from a perspective both caring and analytical, from a broad perspective that covers the basic questions of social justice as they relate to schools.

Yet there are problems. The talk focused on the relationship of social structure to schooling and collective bargaining, but seemed to miss some important points about that relationship. For example, when Mr. deLone went down the list of contract clauses related to the quality of education, he missed some that are very strongly related: the seniority clause, reduction in force, transfer policy, and particularly salary schedules. Underlying our notion of organizations and of human behavior in general is the idea that people respond to incentives. We build incentives into a workplace to get people to behave as we want them to behave: that is to say, to accomplish the goals of the organization. That basic idea, supposedly fundamental to the relationship between the quality of the work performed and the incentives for performing it, seems to be missing in much of education.

What are the incentives for teachers to teach better, and how are those incentives related to collective bargaining? I would argue that in most cases, salary structures and other compensation arrangements do not provide as strong an incentive for quality teaching as they could or should. This is not to say that teachers do not try to teach well. But in the classroom, as a public school teacher, a lot of the determination to teach well has to be internally generated. It is not supported or rewarded by the system. That is the important structural connection and critical point, reflected not only in the contract but in the nature of most bargaining relationships. Bargaining does tend to polarize the parties involved, and polarization often gets in the way of quality. Those are the two basic connections: collective bargaining relates both to the incentive system as part of the rigid structure of schooling and to the polarization to which it can lead. All of this can get in the way of quality, and neither side of the bargaining table has unique responsibility for the effects. The names of both appear at the bottom of the contract; both organizations are involved.

There is another important connection which should be treated very directly in any assessment of the relationship between quality education and collective bargaining. Collective bargaining often contributes to the alienation of the clients--as has been discussed--not so much because of anything that happens at the table or appears in the contract, but because of the conflicts it raises to a highly visible level. Many school clients believe that education should not be political; schools should not be places of conflict. If there is confict in the school, there is something wrong. The school's credibility is threatened. Collective bargaining tends to cause problems that way.

Another point: the collective bargaining contract is quite ofen a handy management cop-out. There are school administrators who will say, they cannot do this or that "because of the contract." In fact, they neglect their managerial obligation to try to boost quality in the school system.

The rhetoric of collective bargaining can be a serious distractor to those trying to understand the relationship between bargaining and quality. Both sides argue vociferously that their proposals are intended to produce better quality education. That is part of the style of a bargaining relationship. But the rhetoric may become translated into fact in the public's mind, and expectations regarding the impact of bargaining on quality become built up beyond reason.

And finally, because collective bargaining is adversarial it enforces solidarity on both sides as a necessary condition of maintaining bargaining leverage at the table. If the management side is divided, it interferes with bargaining. More particularly, teachers' unions are not monolithic, but in order to achieve their bargaining aims they have to coalesce: they must behave as though they are speaking with one voice. I find that often gets in the way of improving quality, perhaps as a result of conservative bias in the system; the only changes advocated strongly are those which have very broad support and threaten least.

Let me just leave you with the following thought the speaker provided today. I see a serious tension in collective bargaining resulting from tendencies in opposite directions. One direction holds a potential to improve quality; the other does not. Bargaining in one direction leads to fairer working conditions for teachers and an opportunity for teachers to participate in the governance of the institution which is very important to their lives. These may provide a direct counter to the growth of bureaucracy that blocks the route to greater quality. But bargaining may also tend to enforce the status quo. Once you have a big investment in the contract, you do not want to see things changed very much. Bargaining may likewise tend to interfere with movement toward decentralization in bureaucratic systems. So the trick in dealing with this tension is to reform bargaining and labor management relations in ways that keep the good part and sort out the polarization, distortion and bureaucratizing influences.

Janet M. Rifkin

The need for collective bargaining is a manifestation of a new and particular vision of the educational environment. At one point, educational institutions were perceived as communities where professionals, students, and staff, with common interests, could come together harmoniously. Now it has become apparent that educational institutions are indeed comprised of conflicts and competitive interests among various groups fundamentally different from one another, and engaged in ongoing political struggle.

Under the view that educational institutions are political institutions, collective bargaining becomes a rational and appropriate response to schools. Through collective bargaining, teachers gain important rights: legal rights, political rights and to some extent economic rights. Under this view, without the guarantees of collective bargaining, teachers would suffer; they would not have access to power. But at the same time, collective bargaining is doing something else which, I think, reflects what Mr. deLone has observed and presents us with both a fundamental contradiction and a question. Even though collective bargaining guarantees a certain amount of political, economic, and legal power, does it change the fundamental attitudinal structure that also exists in the schools? Specifically, let us focus on the teacher. Does the bargaining process change the teachers' attitudes toward the students? Does it foster greater access to educational institutions? Does it help create a social climate where people can address these problems? I think the basic problem here is that collective bargaining actually functions to make it even less possible to ask these questions; although to some extent contract negotiations, salary raises, working conditions, and things of this nature are meant to address deeper attitudinal problems, in fact they do not. And one of the basic issues of attitudes has to do with the process itself.

Collective bargaining is an adversarial process. That is one of the reasons why it works and why it does function to protect certain rights. But if you are functioning in an adversarial capacity, it is absolutely impossible to have any other level of discussion going on. It is not possible to find a similarity of interest between students, teachers, parents, and the community under the rubric of collective bargaining vocabulary. Therefore, another question remains: In what way does collective bargaining, unionization and contract negotiations address issues of race, sex and class? I think again you might turn to specific relevant clauses in the contracts, but I doubt that any real possibilities exist. The problem, then, is that although collective bargaining is absolutely essential, it is also a constant, ongoing contradiction. It is essential, it is necessary, it is a political reality, and without it many people would be in far worse condition than they are now. At the same time, collective bargaining reinforces self-interest, bureaucracy, formalism, hierarchy and professionalism, all of which contribute to an alienated society which, I think, is Mr. deLone's basic concern. Therefore, the ultimate question appears to be: Under the present economic and political structure, what method is there available to us for asking, as well as answering, all the other questions we have here raised?

Melvin H. King

I am afraid that this conference is not able to solve the problem of how to bring about quality education in Boston. Instead, the answer to this problem can only come from the parents, the students and teachers. It is important to understand that the collective bargaining process is only a reflection of the society in which we live. Therefore, there can be no real solutions within the current social and economic context. The fundamental analysis that is missing is an understanding of how public funds are used as a vehicle for income distribution. I will not say "redistribution," because it is clear there has has not been any redistribution of wealth in this society. And as long as we do not even understand what the Declaration of Indpendence is about, we are not going to move in any direction where there will be income distribution. Tax dollars are a vehicle for distribution, and in the context of the politics of scarcity, that is a fundamental issue. Everything else is a reflection of people's fears about how they are going to survive in this very hostile, uncaring, and unloving society.

I cannot get beyond that to talk about the "ism"--whether it is racism, sexism, chauvinism--because the "isms" come out of this culture, and the people who sit at the bargaining table *are* this culture. Without a revolutionary process, to expect them (bargainers) to be any different is to be utterly naive. I would say "downright stupid," if I thought it would have more impact. No group of teachers ever organized parents around the issue of racism in this society. Otherwise, it would not have been necessary for the Supreme Court to mandate desegregation. No group of teachers ever organized people around the issue of redistribution of wealth in this society.

Furthermore, we do not have a definition of quality of education that recognizes the fundamental issues and concerns of parents and children. Quality education can only be achieved by struggling for social equity. Part of quality education is in the teachers' struggle to organize and obtain power for themselves. In that process, I would be happy if teachers walked into the classroom and said, "We got power last week, and now we are going to tell you how we got that power." That would teach students that the way you survive in this society is to be organized, and to be organized is to get some power. That would be quality education.

Questions and Answers

DISCUSSION HIGHLIGHTS

Richard deLone's keynote address, as well as the panel discussion that followed, raised the following questions: what role can unions play in promoting social change and quality education; are the interests of teachers, school boards and parents different; and are unions and management willing to allow multi-party bargaining?--Editor.

QUESTION: The entire panel brought us to the conclusion that either collective bargaining is irrelevant for social change and social justice, or that it inhibits these things. That seems to me to be something of a "bum rap." It certainly seems unfair to blame unions who at least attempted to raise issues of social change, for not being able to prevail at the first negotiation session.

ANSWER (Janet Rifkin): Collective bargaining could be creatively used to promote social change. Unfortunately, the traditional use of collective bargaining has been more as a response to power inequities, but it does not lead to fundamental social reordering.

In my work as a legal aid lawyer, I thought that legal aid clients and legal aid lawyers had certain interests in common. That was one of the reasons we went out on strike--to try to get better working conditions, in order that the quality of our representation could be dramatically improved. Yet, although we won the strike, we found out that the interests of lawyers and their clients were not the same. Nor am I sure that parents' interests and children's interests are always the same. Indeed, there are times when parents have to be a strong adversary group. Although I fully support collective bargaining, I believe it is very important to articulate what it can and cannot do. It is not a panacea; nor does it lead to social justice and social change. Collective bargaining may change some power relationships, but it does not alter the basic structure.

ANSWER (Miles Galvin): Part of our problem is that we are looking only at the contemporary record rather than at a historical record. It is true that the collective bargaining models in teaching are based on the private sector model. But, that model just did not spring into existence fully developed; rather it resulted after a long struggle. Right after the Civil War, the Knights of Labor worked for one big union. They excluded, as I recall, bartenders and lawyers. They wanted a producers' cooperative. They were smashed--smashed by corporate power, by the militia, and by those whom we refer to as the "Robber Barons," the builders of our economic society. After that, the only organization that was permitted to function within certain limits was the businesslike and pragmatic American Federation of Labor. But workers did not willingly fall into that mold. The Industrial Workers of the World (IWW) desperately tried to change and abolish the wage system. What happened to them? They were crushed in the Palmer raids; they were carted out into the desert and starved to death; they were massacred at Ludlow, Colorado, by the Rockefeller family. There was one other attempt. The Congress of Industrial Organization (CIO) attempted to deviate from those narrow constraints that were gradually being forced on the labor movement. The CIO tried to bring to the bargaining table issues about managerial prerogative. It went all the way to the Supreme Court, and the Supreme Court imposed on the labor movement a very narrow set of bargaining issues: wages, hours and working conditions. Unions feel there is nothing more basic to working conditions than job security. This is especially true today when workers are losing their jobs because U.S. managers are not smart enough to see that the Japanese and the Germans are producing a product that is in competition with ours. I think it is a bum rap to say, in 1979, that workers have willingly gone along with this narrow scope of bargaining or that it was their idea to bargain only about wages, hours and working conditions. This is historically inaccurate. It may be too late now to nourish the optimistic direction that Tony Creswell and I predict. I think that the system can change; constraints can be broken down, and laws can be changed. The scope of bargaining can be enlarged, and the fact that it got narrowed did not come from teachers or from workers, but rather from management and government.

COMMENT (from floor): One of the significances of deLone's book is that an "establishment" organization like the Carnegie Council would come out and say we need redistribution of wealth and that you cannot have equality in a capitalist system. My concern about accepting the notion of quality education is that the capitalist system, in fact, preaches equality, but it is equality for the individual. Capitalism posits that anyone can succeed. That is very different from saying everyone can succeed. Attempts to change the system cannot just be within the educational system, but must go on everywhere in society. Furthermore, if parents or students want more input of power, they will have to organize.

ANSWER (Mel King): A person's political ideology--their view of the world--appears to be the missing dimension and explains why the issue of social change cannot come right now. I do not know which groups are socialist, communist, or libertarian. I will not say capitalist, Republican or Democrat because there is no difference between the traditional political parties. Therefore, the first question must be: What kind of society are you hoping to create when you talk about social change? Secondly, it is incorrect to assume that the status quo puts heavy emphasis on individuality. This notion is the biggest hoax that has been put on people. Collective bargaining is only concerned with changing conditions or advocating the interests of the people who are organized to get power in order to meet their own particular needs. Unions and management are not concerned with redistribution of wealth. The name of the game is organizing and getting power.

QUESTION: Are there real differences between the interests of school management, teachers' unions and parents, or are they very much the same?

COMMENT (from floor): The struggle that some of the parents, including myself, in the city of Boston are facing is how to get access to educational decision-making. First, I believe that if we succeed in gaining access to negotiations, parents at the bargaining table have to be independent. Sometimes their interest may be with management, although I cannot see that very clearly or too often, given Boston's experience. Sometimes it may be with the teachers. In fact, our experience up to this point has been that we have been on the side of the teachers, although we feel we have been sold out on some of the issues. Secondly, there is nothing inherent in the collective bargaining process which prevents teachers from raising social justice issues. The record in Boston, however, indicates that they have not. The teachers' union in Boston has been opposed to desegregation; they have been opposed to affirmative action; they have been opposed to raising curriculum issues that deal with the traditional denial of the contribution to history made by blacks, women and the working class. But that has to do with the ideology of the people who control the union. It is not inherent in the collective bargaining process that teachers' unions cannot press for those issues. Furthermore, parents can demand that those issues be raised, either by being a pressure group on the union and management, or by being present at the table. However, it depends on which parents, because since 1905 we have had a parent organization in Boston called The Boston Home and School Association. It is a "company union"; it always has been, and it always will be. It has been opposed to desegregation and is totally controlled by management. Management would love to have those parents sitting at the bargaining table to help support them. But management does not want the City-Wide Parents Advisory Council at the bargaining table and, unfortunately, neither does the union.

COMMENT (from floor): In the public sector, there are groups of people--consumers--who feel left out of the decision-making process. Essentially, it is management and teachers working together almost as unindicted co-conspirators against parents and kids. However, it does not necessarily have to be that way. In fact, we are really beginning to see in management a greater awareness of the political impact of the collective bargaining process. Thus, you will start to see parents moving toward management's side, finding out that their interests indeed lie with management, as opposed to parents and teachers working together.

ANSWER (Rick deLone): One of my concerns is how one mediates conflicts among interest groups within the educational system. It is absolutely clear that there are some issues around which conflicts of interest exist between teachers and parents, children and school board members and even between teachers and administrators. In a school system in which principals' salaries are paid at the level of teachers' salaries, one can hardly expect management to sit across the table and haggle very hard about the salary scale, except when the board represents the taxpayers and want to get reelected. There can also be conflicts concerning the needs of a particular child at a particular time and in a particular classroom. These are very legitimate conflicts. However, the question remains: Which of these conflicts are appropriate to mediate through collective bargaining and which ones ought to be mediated at other levels?

During the past few years, several proposals have been made that would allow parents to have a place at the bargaining table.

If that should occur, the question of which parents go to the bargaining table would end up being just as political as the question of who gets to be on the school board today. I do not think that the bargaining table is the place for parental input in educational issues.

QUESTION (Mel King): Is there some support from unions or management to open negotiations up to parents and students?

ANSWER (Frank Martin): That really seems to be the opinion that everybody is looking for today. People are saying that the process is not working because there does not seem to be enough input from the public. Therefore, they must bring in third parties, fourth parties, fifth parties. This is not a new idea, and it is being discussed across the country today. This same kind of concept arose during the 1960's relative to students. What we found then was that it corrupted the process of collective bargaining, and parties began to hold one another "hostage" to an agreement. At Westfield State College, in Massachusetts, for example, neither management nor the union could come to an agreement, because students would flip-flop from one side to another on whom to support. It is management's responsibility to gather community input and reflect the community's concerns. Perhaps we incorrectly assume that because people are elected to the school committee, they are reflecting the needs of their constituency.

Teachers sit at the table to improve their hours, wages and working conditions; those working conditions do impact on the students. But the primary purpose of collective bargaining is to improve teacher benefits. However, as people begin to get more power and make this process work, it is incumbent upon management and upon teachers to expand their bargaining to guarantee that everybody has participation. How they get that, however, is not through the teachers, although probably 80% of the proposals that come to school committees really do have a bearing on educational quality. If one thinks that is not true, just look back to the days prior to collective bargaining and find out how many educational issues were discussed at school committee meetings by parents, students, or teachers. You will find that the sum and substance of most school committee meetings dealt with the bricks and mortar philosophy--with how to keep the building running, how many teachers we need, how much money we need. That has changed dramatically. But both sides have not yet acquired the sophistication that is needed to adequately represent their constituency. Ironically, in some instances, teacher proposals have tended to show that they are speaking more for parents and more for students than the school committee does.

COMMENT (Margaret Jacques): I would have a problem, as a school committee member, with a group of students or student representatives sitting at the table. As you know, there are certain students in any school system who are very active, but their views are not necessarily representative. In terms of parents, I watched the 90-minute presentation on the Boston Schools, and I did not see unanimity of expression from the parents. I did not stop becoming a parent when I was elected to the school committee. Furthermore, it is important to point out that there are fewer and fewer people who are parents in the schools. There is a very large group out there called "taxpayers" with no vested interest. But what about them? We also try to represent them. We hope we have the good judgment to make some informed decisions. Sometimes we are wrong, and we hear about it every three years when we knock on doors and try to get reelected. So there is that kind of accountability. I do not know how you would ever get things resolved if if more groups sat at the table. It is hard enough with two parties.

Collective Bargaining and Academic Freedom

John E. Dunlop, Esq.

I am going to speak about collective bargaining and its relationship to academic freedom. Let me first lay out some generalizations. The system of collective bargaining is a system for developing private law. The parties define their rights and obligations through a collective bargaining agreement, the topics of which are usually defined by statute in the public sector, and as in the private sector, they usually fall into mandatory, permissible and illegal subjects. The key feature of the collective bargaining system is binding arbitration as a terminal step for disputes arising over the application/interpretation of the collective bargaining agreement. The parties define their rights and then if a dispute arises over what those rights and obligations are, it is submitted to a disinterested third party who will have the power to interpret the contract and provide a remedy for contract violations.

There are a number of questions we have to look at regarding academic freedom in a collective bargaining context. First of all, what is the exact meaning and dimension of the phrase "academic freedom"? Second, is academic freedom a mandatorily negotiable topic? Third, if it is not mandatorily bargainable, is it a permissive or an illegal topic? Fourth, what in fact has been negotiated in school systems throughout this country regarding academic freedom? Fifth, how have arbitrators handled academic freedom disputes arising under collective bargaining contracts? And finally, can a collective entity deprive individuals of constitutional rights through collective bargaining?

First of all, what is academic freedom? I take it to mean the freedom to teach; to select materials and teaching methods. In collective bargaining both parties probably have some sense of what it means, but there usually is no mutual agreement as to its specific meaning. In all the bargaining situations in which I have been involved, the topic has been handled in a rather perfunctory manner. There is usually very limited discussion at the bargaining table regarding its exact dimensions. There is usually a visceral acceptance of it in its abstract form. However, problems arise when it is applied to specific cases. Some form of academic freedom clause is included in the final collective bargaining agreement more often than not. Such treatment of academic freedom is not unusual because traditionally economic items have generated the most heated discussion and created the most conflict at bargaining tables.

The second question is, "Is it mandatorily bargainable?" Thirty-one states have collective bargaining statutes. One would first have to determine what is bargainable in each of those statutes to get some frame of reference whether the topic would be generally a bargainable one. In those states where the scope of bargaining is defined as hours, wages, and working conditions academic freedom would be arguably a working condition. Some states such as Indiana and Iowa specifically delimit the topics of collective bargaining. In Indiana all economic items are bargainable; all non-economic items are permissibly bargainable. Thus in Indiana academic freedom would be inferentially excluded as a mandatory topic.

I have discovered only one case which deals with the question whether or not academic freedom is a mandatory subject of bargaining. In the 1973 Shawnee Mission Case, the Kansas Supreme Court did not deal with the topic in any depth, but simply treated it as one of many non-mandatory bargainable topics. The Kansas Supreme Court concluded that items involving purely educational policy decisions (such as academic freedom) were not mandatorily negotiable, while items that had some impact on hours, wages, and working conditions were. There is one case, The Board of Education vs. Rockaway Township Education Association (New Jersey), where the Association had bargained an academic freedom clause into the collective bargaining agreement but could not utilize it to protect the judgment of a teacher. A teacher wanted to have a prostitute come to his social problems class to discuss the world of prostitutes. The School Board forbade this and he filed a grievance under the academic freedom clause of the contract. The case went to the New Jersey Superior Court which ruled that the Board had exceeded its powers by agreeing to an academic freedom clause. The Court took a most narrow and rigid view about what were mandatory subjects of bargaining because the court in its wisdom wanted to protect school boards and superintendents from their own mismanagement proclivities. At least that is the way I read the New Jersey Supreme Court's decision.

The third question asked that if academic freedom was not mandatorily bargainable, was it a permissive topic? In most states, I would argue, courts would hold that academic freedom is at least a permissive topic. But in the Ridgefield Park Case, the New Jersey Supreme Court ruled that only a mandatory subject is bargainable, and that there was in fact no permissive category of bargainable topics.

In sum, then, most states' courts have not dealt with academic freedom as a bargainable topic. Only one has seen fit to determine it to be a non-mandatory subject and New Jersey has eliminated it through its exclusion of permissive subjects.

Now let's look at what has been negotiated. There are some 9,000 agreements in this country. Taking a representative sample of about 400 of them, our figures indicate that 61% contain academic freedom clauses; a percentage higher than what probably exists in the whole 9,000. The NEA and its affiliates offer model language for initial proposals for academic freedom clauses. Usually it reads something like this.

> Academic freedom shall be guaranteed to teachers and no special limitation shall be placed upon study, investigation, presentation and interpretation of facts and ideas concerning man, human society, the physical and biological world and other branches of learning subject to accepted standards of professional responsibility.

In higher education bargaining, many unions try to incoporate the AAUP 1940 statement on academic freedom and tenure in the collective bargaining agreement. Keep in mind that whatever the initial proposal is, the parties refine it through the bargaining process. But school boards who consider many topics as being managerial prerogatives and therefore refuse to discuss them, for the most part have been willing to discuss academic freedom clauses in collective bargaining agreements and avoid resorting to the prerogatives argument.

I have three samples to illustrate what finally gets translated into agreements. One from the University of Maine states:

> The Board and Association agree that academic freedom is essential to the fulfillment of the purposes of the University. The parties acknowledge and encourage the continuation of the atmosphere of confidence and freedom while recognizing the concept of academic freedom is accompanied by a corresponding concept of responsibility to the University and its students. Unit members shall be free from any censorship threat, restraint or discipline by the University with regard to the pursuit of truth and the performance of their teaching, research, publishing or service activities. Unit members shall have freedom in classroom presentation and discussion provided that the presentation and discussion are relevant to the course content.

One from Birmingham, Michigan, asserts:

> Academic freedom shall be guaranteed to the teacher [this is for K-12] and no special limitation shall be placed upon study and investigation of facts and ideas. . . . Teachers shall encourage the student to study varying points of view and respect his right to form his own judgment. . . . The teacher shall protect the educational program against undesirable infringement.

Finally we have one from Arizona where a collective bargaining statute does not exist. The school board is not mandated by law to bargain, but it may if it chooses to do so. This is what was agreed to in Scottsdale school district.

> Academic freedom shall be guaranteed to the teachers and students . . . and no special limitation shall be placed upon the study and investigation of facts and ideas, except where contrary to statute or board policy. . . . The position of a teacher in a classroom is not privileged as to his or her responsibility for statements which are libelous, slanderous, or which in any way violate the civil rights of others. Academic freedom guaranteed to a teacher requires that material presented to students be relevant to the course and appropriate to the maturity level of the students. Teachers shall at all time strive to promote tolerance for the views and opinions of others and for the right of individuals to form and hold their point of views and opinions.

You will notice that in those three examples academic freedom per se is not defined. There is probably a supposition that everybody understands what it means. Also, in each there is a recognition that there are some limitations on what teachers can do. School boards that are somewhat fearful that an academic freedom clause will give teachers license to do whatever they want to do in the classroom tend to push for these kinds of limitations. Teachers have not been adverse to accepting them, though such acceptance may cause some problems later on.

There are other clauses in the contract that may give rise to substantive academic freedom rights, especially those related to dismissal or disciplinary actions. Some 70% of teacher contracts contain just cause dismissal or discipline clauses under these clauses. School boards must adhere to due process before they can discipline teachers. Consequently, if a teacher is fired for a particular teaching method or selection of material, an arbitrator under the just cause dismissal clause would scrutinize the board's behavior. Also there are clauses that read: "The Board agrees that it shall not directly or indirectly deprive any teacher of rights conferred by the courts, by the Constitutions of the state and the United States." What teacher bargainers try to do is incorporate by reference all the rights they have under existing law, and presumably through that vehicle any violations of those rights are then adjudicated, or can be adjudicated before an arbitrator as a violation of the contract. Even if a contract does not contain a just cause dismissal, an academic freedom or any other clause under which one could claim a right by reference, most arbitrators will closely scrutinize management's right to act. The rule is that management cannot act in an arbitrary, capricious, or discriminatory manner. It is thus conceivable that even though a specific right is not articulated in the agreement, one could claim, especially in discipline cases, that a given managerial act affecting academic freedom was arbitrary, capricious, or patently discriminatory.

What has been teacher experience in grievance arbitration? There is a dearth of cases on the subject. Out of school arbitrations going back to 1967, I counted only 21 cases having anything to do with academic freedom, and in most of those the academic freedom issue was tangential to other primary issues. We are, however, seeing more and more of them arising because there is an awareness on the part of teachers that an academic freedom clause is a vehicle for challenging managerial action.

Probably the best case on academic freedom in arbitration is the Hawaii State Teachers Association vs. the Department of Education, State of Hawaii (66LA1221). The Arbitrator was T. Tsukiyama and his opinion is extremely thoughtful and well reasoned.

Let me give you some background on the case. For four years, from 1971-1975, a high school in Hawaii offered two courses that related to films as art. The teachers in those courses would select films which highlighted some of the ideas and aesthetic values they attempted to get across in their courses. Some were R-rated films. In 1975, the principal of the high school received parental complaints regarding some of the films. One film in particular generated the most parental criticism. The principal concluded that guidelines were needed for selecting all films. The principal met with a teacher policy review committee, but he alone drafted a policy on film selection which stated that R-rated films could not be shown to the students. The teachers involved filed a grievance claiming a violation of the academic freedom clause in the contract. The arbitrator, in his discussion, noted that this was a case of first impression, that there was a dearth of arbitral decisions on this, and that he was really cutting new ground.

First of all, he dealt with the question of arbitrariness. One of the claims the Association made was that the management was arbitrary and capricious in its judgment. He endorsed that concept by saying that the R-rating was not a ban; it was a warning that there may be something in the film that was not appropriate for young people to view without parental consent. He concluded that teachers stand in loco parentis and they can make judgments about what is good or bad for students. In this case, as far as he could tell, the teachers had carefully reviewed the materials, and thus the administrative ban on the basis of the R-rating was arbitrary and capricious. He then discussed management rights, which I think is a good overview of how management rights are intertwined in academic freedom problems. He stated management clearly had the right to review the decisions of teachers and noted that there may be the possibility of collision between managerial rights and academic freedom. But, he continued, if the Board really used its existing procedures carefully and thought their positions through carefully such collision was not inevitable. He noted that one of the great fears articulated by the administration was that by pursuing this particular case, the Association and the individual teacher were claiming that they had a license to do whatever they wanted to do in the classroom. The arbitrator took pains to say that he didn't get that impression. He felt that, to the contrary, during all the testimony presented, the Association and the teacher recognized such limits.

In discussing the role of arbitrators in dealing with constitutional rights, he took the position that an arbitrator is best advised to ignore extrinsic law and apply the agreement. He concluded the principal's policy to ban R-rated films violated the academic freedom article of the contract and therefore had to be rescinded.

Finally there is the question of individual rights and collective bargaining. The problem here is, can a teachers' union through a collective bargaining agreement waive individual rights? One judge of the U.S. District Court for the District of Colorado thought so. In Cary et al., vs. Board of Education of the Adams Arapahoe School District it was held that the teachers through their collective bargaining agreement "surrendered their freedom of professionalism," and but for that agreement they would have prevailed over the School Board in their controversy involving the selection of textbooks. The Federal Court of Appeals upheld the lower court decision but on different grounds and stated specifically it did not reach the question whether teachers could waive any academic freedom rights through a collective agreement.

Another individual rights problem likely to arise in academic freedom cases is one analogous to a case in the private sector, Halodnak vs. Avco, where an obstreperous employee criticized everybody, got fired because of that criticism and grieved. He was brought before an arbitrator he had maligned in his criticism. The arbitrator questioned him so closely about his political views and ideas that the Federal Court decided there was obvious bias on the arbitrator's part and overturned his ruling upholding the suspension. For all advocates there is a continuing problem about the kinds and quality of representation we can give in a highly charged political and emotional atmosphere. I am certain we will see these cases arising more frequently in the public sector. In the Holodnak case the Court concluded that not only was the arbitrator biased but that the union was remiss in providing only perfunctory representation to the grievant. A union is after all a political entity subject to internal political pressures and not all members may be excited about the support a union may give to its members fighting first amendment actions. As a matter of fact, in many cases some members are on the side of the school board and desire that particular teachers be fired for matters arguably protected by the first amendment. I must say that the NEA has been absolutely courageous in supporting teacher causes which were decidedly unpopular with some members. The problem of individual rights and collective actions, I am sure, will be the focus of future litigation in the field of collective bargaining.

This, then, has been an overview of academic freedom in collective bargaining. It is a topic in the collective bargaining arena that has not been thoroughly studied, nor has there been much litigation. But, this state of affairs is unlikely to continue given the forces currently at work in education generally and in teacher collective bargaining particularly.

Richard A. Axelrod, Esq.

Richard Axelrod was counsel for the Right to Read Defense Committee in Vergennes, Vermont. This committee, comprised of parents, students, librarian and assistant librarian, brought a lawsuit against the superintendent of schools (David Potter), the board of directors, and the principal because the school board had removed from the library certain books deemed "obscene and unacceptable." The trial court denied the lawsuit and the case is now on appeal--Editor.

I will confine my comments to the rights of librarians. Although the question of obscenity does not per se control whether or not books may be removed or prevented from circulating in a learning institution, I think it is helpful to bear in mind how that term has been defined in the past and how it is viewed by the present U.S. Supreme Court. One of the earlier definitions, going back to an English case in 1868, said: "the question in determining obscenity was whether the tendency of matter is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall." In 1933 the Second Circuit Court of Appeals, dealing with the book Ulysses, decided that material is not obscene when the presentation, viewed objectively, is sincere and the erotic matter is not introduced to promote lust and does not furnish the dominant note of the publication. By 1956, the United States Supreme Court had entered the picture when it determined that obscenity exists when the average person, applying contemporary community standards, finds the dominant theme of a work to be of prurient interest. In 1972 it further elaborated: "Obscenity is the question whether the work depicted or described in a patently offensive way describes sexual conducts specifically defined by the applicable state law . . . and whether the work taken as a whole lacks serious literary, artistic, political or scientific value." In the most recent, and perhaps the most controversial, decision of the United States Supreme Court, it was held that a juror may draw on his knowledge of the average person's views in the community in making the required determination of obscenity. This leaves open the possibility that each community will have differing views on what is obscene. I personally like Justice Black's famous definition. He said: "Although I cannot articulate it, I know it when I see it."

In Vermont, we have no law prohibiting the distribution of obscene material except as it is intended for minors. In that instance distribution is prohibited if the material is patently offensive to the adult community's prevailing standards of what is suitable material for minors, and if it lacks serious literary, artistic, political or scientific value for them.

In considering academic freedom in a learning institution, I found very few decisions dealing with that issue. There were many decisions on free expression of teachers reporters, and others, but no corresponding decisions on the distribution of materials in a learning institution. Several reasons have been advanced for this dearth of decisional law. One proposition, which I reject, is that decisional law is not needed since so much academic freedom goes unchallenged. Others suggest that the claims of academic freedom have not been set forth with the vigor publishers provide because the economic resources are not there. But, can the libriarian really afford a major lawsuit?

The issues are certainly less clearly defined in the case of a librarian than in other cases. When there was an attempt to prevent the publication of the Watergate Tapes, a black and white issue existed. That issue becomes somewhat fuzzy in the case of a librarian seeking to circulate a book.

In addition to the foregoing, I suspect that a lot of self-censorship goes on in educational institutions.

Finally, there probably is some reluctance to litigate against certain parties. For example, it is easy to litigate against the John Birch Society, an accepted target defendant. But how many librarians want to litigate against the NAACP?

Whether or not a librarian has a constitutional claim is a subject very much open to debate. The Second Circuit Court of Appeals (covering the territory of Vermont, Connecticut and New York) in a recent case gratuitously stated that to propose the shelving of books presents a constitutional issue, particularly where there is no showing of a curtailment of freedom of speech or thought, is a proposition it could not accept. I will discuss that case, known as President's Council, later.

I submit that there needs to exist and to have developed a discrete body of library law which may find authority in a constitutional right to read. Such law, rather than stating a derivative right, should be a right in and of itself.

On the question whether there is a right to read, Supreme Court decisional law subsequent to President's Council suggests that there is a right to receive information. The parameters of this right are still being defined. It has been argued that a librarian really doesn't need this constitutional right because, even if a book is removed from a school, there are alternative sources for using it. That view seems to have been rejected by the United States Supreme Court when it ruled against the City of Chattanooga for barring the performance of the musical "Hair" in the municipal auditorium even though the city argued alternate halls were available. In many states, particularly Vermont with its rural nature, materials certainly are not available from an alternative source. The local libraries have very small budgets and are small in scope. Materials barred from a school library simply aren't available to high school students elsewhere. Furthermore a public library has an obligation to the entire public, not a narrowly defined one. It does not fulfill its responsibility if it does not offer materials and allow the readers to choose what they wish.

I spoke a minute ago of a possible separate, non-derivative constitutional right of librarians that does not depend on the right of the reader to receive information. This substantive right of librarians finds some authority in the analogous rights of professors and researchers who can go to a library and obtain information. Is the function of the librarian any less important?

I don't think it helps to discuss whether a libarians's constitutional right is pure or symbolic speech but it does help to determine what the function of a librarian is. Consider that a publisher is protected in dissemination of material. He cannot be convicted unless such material is obscene under whatever test is in vogue at the time. Should a librarian's rights be any less significant or less protected? The action of a librarian in reviewing, screening, and disseminating information is certainly as important as the performance of a musical production like "Hair" which is constitutionally protected.

I want to note that the rights of librarians, if they exist at all, may not be limited to municipal or public learning institutions. There is a recent case, decided about three or four weeks ago, which suggests that where a private institution performs a public function, as in the case of a library which receives government funds, it is subject to constitutional standards.

With respect to the development of the rights of librarians, it may very well be that litigation is not the best route to take. Certainly Mr. Potter may mention the very hard feelings that existed in Vergennes. The Vergennes case developed after twelve months of controversy. During that period books were removed from shelves after some discussion. Eventually a Library Selection and Management Policy was adopted by the Board of Education setting forth the rights and responsibilities of the Board of Directors, the Librarian and the students. That Bill of Rights of the Library Board Policy incorporated the American Library Bill of Rights. Soon after this policy was in effect, the Board of Education received a complaint about the book *Dog Day Afternoon*, stating that it had "vulgar language, obscene material, too much violence and was immoral and perverted." The School Board, by a 4 to 3 vote, affirmed that the book was obscene, and "had a potential for adverse effects on students." The next book brought before the Board was *The Wanderers*. The basis of its removal was the same. The representatives of the school district then took it upon themselves to go to a library, and without notice to anyone, in a secret manner, proceeded to review all the books the Librarian was purchasing for the upcoming year. Based on that review they imposed a freeze on all new acquisitions, excepting only Dorothy Canfield Fisher books, scientific fiction, and high-interest, low-vocabulary works. The plaintiffs who eventually brought a lawsuit were a number of students, their parents, the Librarian and a group of faculty members who banded together as the Right to Read Defense Committee. I want to tell you in meeting with these students, most of whom were 14-16 years old, I have never been examined or cross-examined as rigorously as by them. They were highly articulate and the brightest collection of students I have ever had occasion to meet. The relief sought from the Board of Directors, the Superintendent of Schools and the Principal of the school, was to reshelve the removed books and to lift the freeze and screening mechanism which the School Board representatives had imposed. We went to the trial court, the so-called inferior court I mentioned before. The court said: "assuming all of your facts are correct, you are wrong about the law; you do not have the right to have the banned books returned to the library." The court noted that while it was not enthusiastically endorsing the actions of the School Board, it felt constrained to deny us relief because of the existing precedent of *President's Council* in the Second Circuit Court of Appeals. We have appealed the case. We have filed a fifty-page brief, which is the maximum allowed in the Second Circuit Court, and anticipate arguments sometime in January.

In the brief we argued, first of all, that the students' first amendment rights were violated. We said that they had the right to receive information, that the denial of materials to them was a violation of that right, and that the basis of the denial of that information was an impermissible one. Although certain legitimate bases may exist, they were not applied here. To say something is personally repugnant to four of seven School Board members is not a sufficient reason and cannot pass constitutional muster. In addition to raising the students' first amendment rights (and we also mentioned that they may have some due process rights emanating from the Library Bill of Rights), we argued that librarians have certain rights. Librarians have a right to freely select the materials which are going to be in the library. That is an important fringe benefit of their job. They do not want to be classifiers only; they do not want to be people who shelve and unshelve books all day. They want to be involved in the book selection process. In this instance, the Librarian fought for and was granted the right by the library policy to select books. To then arbitrarily limit her right of book selection, as the school board did, we suggest, was a violation of due process of law. We think that the right she had was one that was constitutionally protected.

I indicated before that the Supreme Court now appears to recognize the right to receive information. We think that the underpinnings of the earlier case, President's Council, have been called into serious question by later cases articulating the right to receive information. I want to quote a couple of these cases so that you know exactly what the Supreme Court did say. "Where a speaker exists, the protection afforded is to the communication, to its source and to its recipients both. Freedom of speech necessarily protects the right to receive." There have been other cases involving book censorship in school libraries. The Sixth Circuit Court of Appeals, which is as powerful as the Second Circuit of Appeals, determined that President's Council was wrong, and that there is a right to receive information. When books were removed in Chelsea, Massachusetts, the Federal District Court in Boston, upholding the right to receive information, ordered the books restored. In a decision by the Federal District Court in New Hampshire, in the Salvail case, the Court again ordered removed books to be returned to the shelves. The only cases decided adversely of late are the lower Court decisions in Vergennes and Pico where the courts felt constrained by existing precedent of their own Appeals Court.

The question then comes up, and it is one that I certainly had to consider when I first became involved, are there any limitations at all on book selection in schools? We think there are. If it can be demonstrated that there is actual or reasonably anticipated classroom disruption, or psychological harm to students, and if such judgment is not just the whim of somebody's imagination, then we think it is proper to remove books from the school. We think that acquisition decisions in the first instance must have some legitimate educational basis. Once that criteria has been met, the books are to stay. The actions of the School Board in Vergennes were substantial. Two books have been effectively and completely removed from the library. One has been placed on a so-called reserve list which apparently is a drawer of the Principal. The freeze which was implemented deprives students of new books and was really tragic because an excellent librarian was involved. The library, before this new librarian came, was a place not much used. After she came it became a showplace. Circulation soared, paperbacks were brought in, and it became a place where students wanted to be and wanted to read.

To summarize: 1) the Board's action in Vergennes appears to be based on their personal opinions that certain books are vulgar and obscene, and not on any valid factors or evaluation of the books in the terms of their own articulated selection policy. We suggest that books may not be removed because of a Board's social or political taste. For those of you who are not familiar with some of the other cases I have mentioned, in other districts Slaughterhouse Five has been removed; The Fixer has been removed; I leave it for you to judge whether or not these books should be available in a school. 2) We think that a School Board, before it can remove books, must show that it is constitutionally neutral and its actions are furthering some substantial and legitimate governmental interest. 3) The law is very clear that once some right is created, such as a literary right, the creator of that right may not just run roughshod over it and deprive its beneficiaries of it. If you are a government body and you establish a set of rules, you have to abide by them. That is what this particular government is about. 4) Finally, the second claim being made is the librarian's due process claim, mentioned before. The Constitution recognizes that before there is a violation of due process there must be a cognizable property right. We think that the librarian's right to select materials was such a right and should be upheld in the judicial system. In this instance we had a Bill of Rights which permitted professional personnel, in accordance with Board policy, to freely select such materials and to organize and administer the media collection. As such, the professional personnel had an interest in a benefit and that type of interest has heretofore been recognized as a property right for due process purposes.

David Potter

In today's society, the issue of academic freedom must be discussed.[1] As a school administrator, it is particularly critical to my interests. However, it is also critical to society at large, especially since we seem to be entering an era marked by conservatism. This is particularly true in communities such as Vergennes, Vermont, where there are several strong religious groups. It is frightening to discover what some of these religious groups are proposing, and I would certainly hate to think what the curriculum would look like under their control.

When I talk about academic freedom, I do not mean putting it into the collective bargaining contract. Simply discussing the issue will force school committees, school administrators, teachers and students to understand what this means to them and to arrive at some areas where they can agree. However, I do not think a school board has the right to bargain away the responsibility given to it by statute. In many states, as in Vermont and New York, specific statutes exist which outline the responsibilities of school directors. Vermont's statutes, for example, state that "the public schools' learning experiences shall be provided for pupils adapted to their age and ability in the fields of . . .," and they list the various fields that should be covered. They conclude with, "such knowledge as the state board or local board may deem desirable." This clearly gives some responsibility for local boards to deem what is desirable. Another statute says that the school board shall determine the educational policies of the school district and describe rules and regulations for the conduct and management, etc. It continues, "that the board shall provide, at the expense of the district, and subject to the approval of the Superintendent, all textbooks, learning materials, equipment and supplies." That whole area, then, the board really has no right to give away.

We must attempt to develop a policy on academic freedom which the school board could adopt, outside of the collective bargaining agreement.

I propose the following policy on academic freedom in the public schools:

> If our Democracy is to succeed as a way of life, citizens must be able to listen to all sides of a controversial issue, sort out the facts and arrive at independent conclusions.
>
> The community has a right to expect that controversial issues will be presented in a fair and unbiased manner and to grieve to Board of Education (through proper procedures) if their expectations are not being met.
>
> Students have the right to receive information about controversial issues and to exchange ideas and express themselves about issues, providing the time, place and manner of expression is appropriate.
>
> The Teachers, Administration and Board each have a responsibility. It is expected that teachers will discuss controversial issues within their own subject matter area to the extent that the discussion is appropriate to the maturity level of the students

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[1] In order to allow for audience participation, I discarded my speech and simply made a few remarks in response to the preceding speakers.

> involved.
>
> The Board places the responsibility of monitoring and managing the curriculum and learnimg materials on the Administration.
>
> The Board reserves the right to approve (or disapprove) curriculum and learning materials in any subject area provided by statute of policy.

One thing I would suggest to all of you, and the attorneys can criticize me for it, is that the courts should not be running the school system. That is the responsibility of school boards and administrators. The courts may tell you whether you are right or wrong, but one must not sit back and wait for the courts to tell you what to do. They are not in the business of managing schools.

On the library censorship issue, Richard Axelrod and I agree, in part. Indeed, it was a twelve-month controversy that preceded the policy. Beyond that, there is some separation of position. Let me quote the Federal District Judge's remarks (in the Vergennes case). When he stated his conc;usion he referred to the President's Council of the Second Circuit Court saying that, "the intrusion of the Board here on any First Amendment constitutional right of any category plaintiff is not only not sharp or direct, it is miniscule. Nor do we believe that school librarians have independent First Amendment rights to control the collection of (a) school library under the rubric of academic freedom." He has been labeled by many as a conservative judge, one who will go with the institution more times than not. I have no idea what the Appeals Court will do.

Proposition 13 and Its Impact on Collective Bargaining

John B. Russo

THE EFFECT OF THE TAXPAYER'S REVOLT ON COLLECTIVE BARGAINING IN PUBLIC EDUCATION

Collective bargaining is a dynamic process that permits the joint establishment of the rules that regulate the terms and conditions of employment. Further, it is a process by which various parties can mutually participate in the resolution of problems that are indigenous to them. As such, at least ideologically, collective bargaining remains one of our nation's most democratic institutions. Nevertheless, collective bargaining is in trouble, and more specifically, it is in trouble, and more specifically, it is in trouble in the area of public education.

To a large measure, the reason for the current difficulty is the hostile socio-economic environment in which collective bargaining presently occurs. This is the same environment which has resulted in the passage of Proposition 13 and its so-called "clones." It is the purpose of this presentation to discuss the effects of this climate on collective bargaining in public education; to suggest that the assumptions themselves have been generated largely as a result of the conservative business community working in its own best interests.

Current Bargaining Environment

Collective bargaining in public education is occurring in an increasingly polemical and hostile socio-economic climate. The continued effects of inflation as well as the conservatism of the "taxpayers' revolt" has forced teacher organizations, school committees and community groups to take rigid positions in negotiations. For example, cost pressures on school committees have made it difficult to bargain over many issues, and, in some instances, teacher organizations have been asked to return benefits formerly bargained away. These cost pressures have forced teacher organizations to take a "hard line," that is, to bargain defensively to retain earlier gains and to at least maintain a cost of living adjustment and job security. Within this context, some community groups are demanding that school officials minimize any further tax increase while maintaining or increasing the quality and effectiveness of the public schools.

While the socio-economic climate has placed severe pressures on collective bargaining, so has the current skepticism towards government. It is not uncommon for members of the general public to be suspicious and disenchanted with public employees and to see them as ineffective and inefficient bureaucrats. Consequently, public employees have been subjected to public ridicule and have been made the scapegoat for many of the nation's social and economic deficiencies. More specifically, public school employees have sometimes been blamed unfairly as the source of the decline of both school discipline and test scores as well as unbearable tax increases. Overall, the socio-economic climate and the skepticism towards government have caused the bargaining participants to become highly sensitive to outside opinion and defensive in negotiations. In turn, the environment at the bargaining table has become more angry and bitter, and where strikes have occurred, they have been increasingly severe.

As a result, many of the participants in collective bargaining have become highly cynical. Many believe that the excessive rhetoric generated in the current environment has effectively compromised the potential for constructive thought in regard to both the content and structure of collective bargaining; and that the stridency of the current debate, in the words of Wayne Horvitz, the director of the Federal Mediation and Conciliation Service (F.M.C.S.), has caused healthy adversary bargaining to be replaced by confrontation politics. Consequently, collective bargaining in public education is becoming institutionally rigid which makes it difficult for the participants to face the serious problems affecting public education today.

Given the present dynamics and participants' inability to face their negotiating responsibilities, collective bargaining in public education may increasingly be delegated to outside forces. In some instances, this could result in the routine use of compulsory arbitration. While compulsory arbitration can be used as an effective impasse procedure and substitute for strikes, it was not developed as an alternative to the collective bargaining process itself. Similarly, when the parties are unable to address controversial issues in public sector bargaining, they can be expected to turn to the legislative process to attain goals that they were unable to attain through the negotiating procedure. It would seem apparent that the overuse of compulsory arbitration and the legislative process to circumvent serious negotiations may lead to a substantial loss of autonomy and local control of public education.

The Taxpayer Revolt: Another Perspective

The assumptions that serve as the foundation of the current hostile bargaining environment are the same as those that have been suggested as the cause of the passage of Proposition 13: the issue of the support for government services and their finance. In the case of Proposition 13, the conservative business community and its supporters have, to an extent, convinced many in the general public that the taxpayers' revolt is an indication of the public's dissatisfaction with governmental services and the public's ability to pay for these services. Yet, despite these claims, much of the evidence seems contradictory. Furthermore, in recent months the actions of the business establishment suggest that their motivating force in support of tax reform may have been the result of enlightened self-interest rather than a sincere identification with the plight of the homeowner. These issues must be examined in order to accurately assess the meaning of the taxpayers' revolt and its implications for bargaining participants.

Central to the discussion of the taxpayers' revolt has been the conservative claim of too much "government intervention." It has been suggested that the liberal reforms of the 1960's were poorly conceived and too expensive and that the public now seeks a cut-back of government services and, overall, less government involvement. However, recent public opinion polls seem to suggest otherwise. For example, a CBS and New York Times poll found that, except for welfare payments, there is little general agreement over what services should be cut as a result of Proposition 13. It should be noted that cuts in education were of the least concern to the taxpayer. At the same time, other polls imply that the general public is overwhelmingly in favor of greater governmental regulation of the nuclear industry, air safety and the oil industry. Furthermore, it is ironic that presently many of those who complained most bitterly about governmental intervention have taken quite the opposite position concerning the use of government funds to bail out the Chrysler Corporation. Indeed, as John Kenneth Galbraith has humorously suggested, isn't it strange that suddenly the road to socialism should be paved by Citibank and the Chrysler Corporation.

The second major conservative claim for the taxpayers' revolt is the dramatic increase in the amount of property tax. For this there is little doubt. For example, since 1953, the average American family of four has increased its income threefold (From 5,000 to 16,000) while at the same time its taxes have increased sixfold (from 600 to 3,600). To be sure, some of this increase has been the consequence of increased governmental services; however, most of the tax increases, especially in recent years, have been the result of inflation and in a shift in the tax burden. In California, the price of real estate of homeowners has soared disproportionately to the values of commercial property. Since assessments of real estate in California tend to occur more frequently than in other areas, the rapid increases in real estate values were quickly translated into skyrocketing property taxes. For example, between 1975 and 1978, California homeowners experienced a 110% increase in property taxes. At the same time, assessments of business property had increased by only 26%. This accelerated an already shifting tax burden to homeowners. The net result was that in 1978 (the year in which Proposition 13 was passed) single-family homeowners were carrying about 46% of the tax burden as compared to 32% five years earlier. This transfer in the tax burden was not indigenous to only California. States such as Michigan, Ohio, Wisconsin, and Minnesota, among others, all experienced such changes. In Idaho, where a Proposition 13 clone was also ratified, the homeowner's tax burden has nearly doubled since 1970.

It should be emphasized that the shift in the tax burden was not merely the result of inflation. The tax burden of homeowners was intensified by the variations in assessment formulas for business and residential property owners; the impact of tax uniformity clauses which gave local tax assessors less freedom in the assessment process; and lastly, by the interstate rivalry in attracting business through the use of tax abatements.

Overall, the alteration of the tax burden has financially squeezed many homeowners. This shift has been best summarized by Harvard Institute's researcher, Bob Kuttner, who recently stated that homeowners continue to pay higher taxes and an increasing share of the tax load at a time when the net worth of ordinary people is increasingly concentrated in their homes. At the same time, other forms of wealth such as stocks, bonds, and luxury commodities escape taxation as property.

While the reasons for the passage of Proposition 13 may be subject to debate, the results certainly are not. Property tax revenues in California were cut by 7 billion dollars in the first year. In a detailed analysis by the Revenue and Taxation Committee of the California Assembly, it was found that 36% of revenues were merely transferred from local governments to the State and Federal governments. More importantly, 40% of the benefits of Proposition 13 were returned to those who owned land for commercial purposes (rental, agricultural and industrial) while only 1.7 billion dollars (24%) was returned ultimately to homeowners.

To make matters worse, not only did the homeowner receive the lowest share of Proposition 13 benefits, but in the future, these benefits will be quickly eroded. Proposition 13 rolls back property values to 1975-1976 assessment levels, limits the property tax to 1% of that value, and places a ceiling on future assessments at 2% only if you owned that property before 1975. If you bought a house after 1975, the assessment is equal to the purchase price plus an assessment ceiling of 2% per year. Consequently, since the turnover rate is much higher for residential housing as opposed to commercial property, homeowners will be paying an increasing share of the tax burden while most commercial property taxes will remain virtually stable.

As for sharing the benefits of Proposition 13 in the form of lower prices and rentals, there has been only a negligible reduction and this has been done primarily on a one-shot basis. Despite the assurances of the business community during the Proposition 13 campaign, most commercial property owners have taken a position similar to Standard Oil of California which did a turnabout and said in the Wall Street Journal in February that it didn't like anybody telling it what it could do with its profits.

To summarize, the current socio-economic conditions have placed severe restraints and limitations on constructive collective bargaining in public education. This often has resulted in the extenuation of distrust and frustration and could possibly lead to the irresponsible delegation of authority to arbitrators and legislators, and subsequently, the reduction of local government control at the school district level. Yet, the assumptions which underlie the present conditions are faulty and have been misrepresented by the conservative business establishment to its own advantage. The public wants governmental services and is willing to pay for these services. What they are unwilling to shoulder is the excessive taxation created by the shifting tax burden. Those seriously concerned with education (school administrators, parents, and teachers and their organizations) must now join together and fight what will largely be a political struggle. Specificially, this means the clarification of the meaning of the taxpayers' revolt to the public and the lobbying for more progressive forms of taxation and public finance. If this is not accomplished, there will be continued hostility that can only lead to further misunderstanding and unrealistic expectations that can be destructive to both the bargaining process and to public education. Clearly, what is at stake is the public trust in democratic self-government of public education, and the institution of collective bargaining itself.

Marylou Theilman

TAX CAPS AND COLLECTIVE BARGAINING IN EDUCATION: AN EXAMPLE

When I was asked to participate in this conference, I was not sure which hat I should wear. Was it the one of the wife, mother and taxpayer who grumbles when she buys groceries and pays the bills--or the one of teacher, counselor and surrogate mother who deserves a fair salary? Or should I wear the hat of a school committee member who has to juggle children's needs and the amount of money it costs to educate them versus the community's ability to pay? It seems that it would be helpful to address all three of these groups. Therefore, I decided to compile a chart which would show what has happened to a local school system financially over the last three years, or since 1977.

Chart I

YEAR	BUDGET	DIFFERENCES in DOLLARS from PREVIOUS YEAR	% of INCREASE	NEGOTIATED SALARY INCREASE
77-78	7,344,671	345,367	5%	4% plus Increment Ave. 3.5%
78-79	7,732,748	388,077	5%	$400 & $550 max. plus Increment Ave. 3.5%
79-80	7,969,285	236,537	3%	5% plus Increment Ave. 3.5%
Projected 80-81	8,288,056	318,771	4% Imposed	?

SALARIES APPROXIMATE % of BUDGET	69% AMT. IN DOLLARS	TOTAL BUDGET LESS SALARY 31%	CPI		EXAMPLES OF in 31% of BUDGET
69%	5,067,822	2,276,849	6/77-78	7.9%	Books Supplies Equipment
69%	5,335,596	2,397,152	6/78-79	9.9%	Maintenance Transportation Food Services
69%	5,498,806	2,470,479	6/79-80	12-13%?	Insurance Cooperative Programs Retirement
69%	5,718,759	2,569,298	6/80-81	?	Vocational Ed. Tuition Debt Retirement & Interest Utilities Fuel

Chart I indicates that in 1977-1978 the total budget was $7,344,671, or an increase of 5% over the previous year. In that year the negotiated salary increase for teachers was 4% plus increments of approximately 3.5% for a total of 7.5% salary increase. Approximately 69% of the budget, or $5,067,822, was in salaries. The remaining 31% of the budget included items such as books, supplies, equipment, maintenance, transportation, insurance, utilities, fuel, etc. The CPI for 6/1977-1978 was 7.0%.

The following year, 1978-1979, the budget increase was 5%. The teachers received $400 across the board, except those at maximum who received $550. Increments were 3.5%, so the approximate salary increase was 7%. The CPI was 9.9% for the 1978-1979 school year.

In 1979, the State of Massachusetts imposed a 4% tax cap or limit on school budgets which applied to the 1979-1980 school budget and the 1980-1981 budget. The 4% limit could be overridden in this town by a 2/3 vote of the school committee and a 2/3 vote of the town meeting.

The budget for 1979-1980, which is the current year, is up 3%. This year the teachers received a 5% salary increase and increments of 3.5%, or an overall salary increase of 8.5%. The CPI at this point in time seems to be around 12-13%. In order to keep the budget increases low over the last few years, the school committee has reduced expenditures in the non-salary accounts. Books, supplies and equipment have been reduced, and major maintenance items have been delayed. In addition, the committee has been reducing teaching positions as enrollments have declined. When there has been a need to replace retiring or resigning teachers, replacements have been fired who are the lower end of the salary scale.

Next year's budget is now being formulated and will fall under the 4% tax cap limit. The school committee recognized that this would limit the amount of money to be spent and therefore sent out a survey to parents of elementary school children. Parents were asked to indicate what items in the budget were of high, average or low priority to them. They were also asked if they would support exceeding the 4% tax cap if the school committee felt that it was necessary. Of the parents returning the survey, 62% favored exceeding the cap and 38% did not. Among parents, then, the 2/3 support was not received but will be needed at the town meeting in April/May.

This background information is important for upcoming negotiations. It is clear that there will be limits in what can be offered in the financial package, inasmuch as exceeding certain percentages or dollars could require severe reductions in services, programs and/or personnel.

Chart II 79-80 SALARY BASE 5,498,806

% INCREASE	DOLLAR INCREASE	% OVER CAP	DOLLARS OVER CAP
1%	54,988		
2%	109,976		
3%	164,964		
4%	219,952		
5%	274,940		
6%	329,928	3.5%	11,157
7%	384,916	20%	66.145
8%	439,904	38%	121,133
8.5%	467,398	47%	148,627

Chart II shows this year's salary base of $5,498,806, and what percentages salary increases from 1% to 8.5% would mean in terms of dollars. These figures assume that no one would receive an increment next year. Also, a 4% cap limits the overall increase of the budget to $318,771. A 1% salary increase is $54,988, and a 3% increase is $164,964. A 4% salary increase is $219,952, leaving $98,819, or a 4% increase, for non-salary items. At a 6% salary increase, the 4% cap will be exceeded, and there will be no money for increases in non-salary items. Yet, this year's transportation costs have increased by 27% and utilities by 25%. Next year's projections include a 44% increase in transportation. Paper products and school supplies have increased dramatically over the last few years, and it is anticipated that they will increase by at least 20% next year. These items cannot be reduced, because Massachusetts law requires that school systems provide all books and supplies for students. These factors will certainly influence contract negotiations this year. It is obvious that any form of tax cap can severely limit the flexibility the parties have in bargaining the financial package.

It is apparent that because the budgets over the past three years have been reasonable, we are now experiencing problems, because there is no surplus in the budget. School systems which have not reduced staff as enrollments have declined, or have not had lean budgets in prior years, will have some flexibility under the 4% cap this year. However, the fact remains that in a relatively short period of time they, too, will have problems.

If the tax cap is implemented, and non-salary items keep pace with inflation, then salaries and negotiations will suffer. If salaries keep pace with inflation, or even reasonably keep pace, then services, programs and/or personnel will be eliminated. Citizens, parents, teachers, students and school committee members must all be aware of the effects that tax cap legislation has on education. It is indeed unfortunate that school systems and communities which have been fiscally responsible over the years may now be penalized through the implementation of tax caps.

George Hill

Each year, the Massachusetts Association of School Superintendents establishes and attempts to implement certain goals. Our number one goal this year was to explore the implications of the shifting tax structure that finances education in the public schools and to assess the educational priorities within a limited tax structure. To do this, we continued the Ad Hoc Committee on school finances and monitored all phases of Proposition 13-type legislation and initiative petitions concerning tax limitation petitions and proposals as they affect schools in the Commonwealth of Massachusetts. Right from the beginning, our Association investigated and became involved in the so-called Proposition 13-type of legislation, as we are very concerned about the potential impact of various tax-cut propositions on collective bargaining in the public schools.

The President of our Association recently made a statement on this at our annual business meeting. He stated:

> One thing we can be certain of is that change will be with us always. As administrators we can either be consumed or refined by it. One area that has changed dramatically in our business is that of funding. Fiscal autonomy is virtually a fiction at this point. Pressures from budget limitations and any sacrifices are not uncommon and there is great temptation to jettison hard-won programs to satisfy cost-thirsty constituents. However, there is a renewal of concern on the part of the school committee members and superintendents alike to preserve the progress made in our schools. During this period of great change in the financial structure of public education, we find it necessary to call on every possible resource to maintain quality instruction. This will tax our ingenuity and will call for new creative skill. It will also provide a different kind of arena where we as professionals will be called upon to take unpopular positions in the interest of children and you. This is not necessarily a new posture, but its intensity may be accelerated considerably.

Eight years ago, when I first started discussing collective bargaining and meeting with superintendents around the state, discussions concerned what would be the cost-of-living raise given to the employees that year--6, 8, or 10% Would they be across the board raises? What about the steps plus 30, doctoral programs, and so forth. Today, in the face of collective bargaining under Proposition 13-type tax cap limitations that are now being circulated, there is a new emphasis. Discussions at collective bargaining sessions are concerned with reductions in force, seniority, tenure, bumping rights, early retirement, incentives, smaller class size, rehiring practices and transferability. Wages and fringe benefits do not seem to be the unions' main concern at this time. I am sure they want to keep up with the cost of living, but they are looking toward maintaining their jobs and holding their positions. We, as superintendents, are as equally anxious to keep the status-quo, and not lose qualified teachers through attrition and reduction in staff.

But the facts today are different than they were seven or eight years ago. First of all, there is no such thing as a Proposition 13 here in Massachusetts. For us it is called 2½. Like all the other new fads that come out of the West, such as the hula-hoop, surfing, skateboarding and the latest fad, roller skating, Proposition 13 has started out in California. But as it has moved East, it has become a monster. Today we are facing tax limitation through initiative petitions which are now being circulated around the state.

Tax limitation through initiative positions, not Proposition 13, is a definite and growing threat, and is the real problem for us. Originally there were twenty-three such petitions that were circulated and filed at the Attorney General's office. There are now four petitions whose supporters are attempting to secure the necessary 58,868 certified signatures. Of these four petitions, the worst for Massachusetts, education, public employers, and for collective bargaining, is Proposition 2½. Proposition 2½ is not the first ripple from the California Proposition 13, but it is the final and biggest tidal wave of all.

The first ripple during the last legislative session came through Governor King's famous zero tax cap. The zero-base tax cap meant simply that your budget for 1979-80 could not exceed your budget for the previous year. That is quite unrealistic if you look at collective bargaining, the cost-of-living, inflation, energy, etc. We worked through the legislative process, and were able to negotiate a compromise; but it is nearly impossible to bargain with such tax limitations.

The polls indicate that people want an immediate reduction in their property tax, but they do not want any cuts in services. The public can be, and often is, deceived into accepting immediate relief without considering until too late what that sort of short-term relief is going to do for them in the long run.

As life under the 4% cap is tough, and reduction in staff takes its toll, Proposition 2½, if passed, is a disaster. While the legislative process may be slow and cumbersome, Proposition 2½ is swift and lethal. While a 4% tax cap allows at least some options, Proposition 2½ leaves none. Anyone who supports Proposition 2½, in my mind, is either a masochist, big business, or grossly misinformed. Unfortunately, it is misinformed people, urged on by the advertising campaign, supported by big business and the media, who are signing the petition.

Proposition 2½ was developed by the Citizens for Limited Taxation. It is funded by Associated Industries of Massachusetts, together with the Massachusetts High Technology Council. Thir petition, if approved, would appear on the State ballot in 1980 as a proposed law and on the 1982 ballot as a constitutional amendment.

For us in education, and myself as a professional card-carrying lobbyist, we are forced to follow the daily proceedings, hearings, and activities of the various State committees; committee on education, committee on public service and taxation, etc. Action taken by these committees and passed into law have definite and lasting impact on the cost and operation of schools and education. But this is a time-honored, accepted legislative process. With the legislative process there is an opportunity to negoitate, to compromise and to actually do some collective bargaining, if you will.

If Proposition 2½ were to become the law of the land, it would drastically affect not only schools, but other public employees in municipalities, cities and towns. All of the governments would be forced to look very differently at collective bargaining, because Proposition 2½ gets at the real issue, "Where is the money coming from?"

In conclusion, it is not Proposition 13 with which we should be concerned, but rather Proposition 2½. As an old fisherman, I relate the sport of fishing to the game of collective bargaining. The object of fishing is to catch as many fish as possible with the least amount of bait. When you run out of bait and have nothing left to attract the fish, you know the fish will not bite. In negotiations, without bait you have nothing to offer. I will give you an example of what I mean in 2½. Just think of a nice, fat, long, juicy worm. You can cut it up a little at a time, but it still wiggles. You can still put it on a hook and use it to catch fish. But take a big rock and smash that worm, you have no worm, no wiggle, no bait. And that is exactly what 2½ will do to collective bargaining, in my opinion, in Massachusetts.

Charles Shepherd

It is an established fact that the principle of Proposition 13 has wide public appeal. This is evident by voter acceptance of the principle of tax limitation across the entire country.

In Massachusetts, we elected a governor in the fall of 1978, partly upon his reputation as an executive--as Director of the Port of Boston--but largely on his pledge to lower property taxes by 500 million dollars. The record indicates that with fiscal austerity issues dominating the campaign, political party lines meant very little, and King was elected because he received rather substantial support from those enrolled in both major political parties. Proposition 13 and other tax limitation petitions are issues which cross party lines.

In Massachusetts, since the 1978 gubernatorial election, the legislature has enacted a limitation on city and town spending. As is usual in the legislative process, compromise prevailed, and the tax limitation provided for a 4% increase above the previous year. It also has a safety value that allows a City Council or Town Meeting to vote to override the 4% limit by a two-thirds vote.

The record indicates that since the 1978 gubernatorial election, 225 towns and 34 cities have set their tax rates: 126 towns and 34 cities reduced their rate from last year; 23 towns and 3 cities maintained their tax rates; and 76 towns and 2 cities increased their rate during 1978-1979.

This clearly indicates the general public's acceptance of the principle of reduced public spending, and that some form of tax and expenditure limitation is certain to be with us for a long time. In fact, during the fall of 1979, in Massachusetts, 24 petitions have been filed with the Attorney General proposing various forms of tax limitations to be placed on the ballot in November 1980.

The procedure for adoption is initially complicated. Before these petitions can appear on the ballot, each petition must be signed by 58,868 Massachusetts qualified voters by December 5, 1979. Canvassers are at work seeking signatures right now.

The Legislature will pass on each petition in the same manner as in other legislative proposals. If the Legislature fails to approve the proposal by May 7, 1980, the sponsoring group must then seek an additional 9,811 signatures of qualified voters on, or before July 2, 1980, to assure that the petition will appear on the ballot on November 11, 1980.

The petitions can become law if approved by at least 30% of all those voting in the election, and also by at least 50% of those voting on the subject of the petition.

Although the Legislature can edit, it cannot change the specific purpose or sense of the petition. Of course, it is also possible that the Legislature might develop a similar law of its own.

It is significant to note that the proposals we are discussing today are General Law amendments and not Consitutional questions. Therefore, it is entirely possible for the Legislature, at a future session, to modify or amend the law that may be adopted by the electorate if it proves to be unworkable.

Those of us who like to feel that we are responsible citizens must direct our efforts to see that specific limitations on taxes or public spending are realistic and workable. We cannot allow such a program to cripple essential services, nor destroy real progress in public programs that are essential for the health and well-being of all our citizens.

I feel that public concern of the cost of government is only one element of the total cost of living today. Inflation in excess of 13% on an annual basis is a very real hazard to the welfare of every family and to the economy of our entire country. Taxes are but one, although important, factor in this economic squeeze. We cannot escape the very real possibility that inflation will cause our individual expenditures to be in excess of our income. We must, therefore, support efforts to make government more efficient and economical.

Perhaps those engaged in the profession of education are in a more fortunate position than others. As all of these proposals are measured by previous years' expenditures, declining populations in our school systems may leave a little cushion for educational support. The Department of Education reports that since 1974, student enrollments have dropped 10%, and their forecast indicates a further 10% drop in the next four years.

In summary, it is my judgment that the greatest value of these proposals lies in the aroused public sentiment and interest in government and not in rigidity of the legislative effort to control excessive public spending. We who are, or who have been, in public service should not become greatly alarmed about this subject of tax and spending limitation, as I believe that public interest in the welfare of our future generations will guarantee the continuous support of sound public service programs including quality education in Massachusetts.

Larry Sibelman

Specific conditions in California made it possible to pass Proposition 13. In the first place, there was an excessive reliance on local property taxes to support schools in California. Seventy-three percent (73%) of the school costs at the time Proposition 13 was passed were borne by the local property taxpayer. In fact, the AFT had engaged in a long campaign to shift this ratio of school support resources in order to lessen the amount of local property taxes that went to support education. The reason that you could not get the state legislature to put more money in was that it was dominated, at least in the Senate, by many rural legislators who opposed putting more money in. However, we needed it in cities and argued for 20 years that someday the taxpayers were really going to knock us in the head if we did not change this. Unfortunately, we could not convince the people who could make the decision.

Secondly, California had a spectacular increase in real estate prices. Absolutely phenomenal! There were 200,000 new residents a year moving into southern California for five years prior. Mortgage interest was excessive. There was a terrible general inflation and a lot of speculation in real estate against that inflation. Of course, that was induced by government policy of deductioning for real estate taxes and real estate mortgage payments from the federal taxes. Real estate was a tax shelter. But those economic conditions put together created rampant real estate inflation.

The result is that some poor worker buys a house for $30,000, and five years later he is earning a little bit more money and his house is worth $170,000. Then, the taxes themselves were putting him on the street, because he could not afford to pay them. Taxes were pegged at a rate suggestive of city services, etc. Your pay inflates three times; you pay three times the taxes on it. Unfortunately, the average American was unable to absorb these costs. In addition, much property in southern California is assessed about every three or four years. This creates an accumulation of tax rates based on inflation. You do not know what that new assessment is going to be until it takes place. Taxpayers who bought homes 3½ years into the assesment period, assuming their taxes were going to be $1,000, were reassessed three months after they bought their homes, and their taxes increased from $1,000 to $2,500 a year. Soon thereafter, they voted for Proposition 13.

Conditions similar to these can create a nationwide disaster. As you recall, Congress passed a new social security rate about the time that Proposition 13 was being discussed. There was rampant inflation. There was also a kind of populist conviction that all bureaucrats and Democrats were inefficient. So at the same time Proposition 13 passed in California, a dramatic change in the national psyche was occurring. In California the immediate effect, from a socio-psychological standpoint, was real fear on the part of public employees and public managers concerning what the future of public services was going to be. And, of course, there was a great deal of elation on the part of Howard Jarvis and the tax-cutters, because they had the "bit" in their teeth; they won support, and they were going to put it to work. The voters were then happy, because they "really showed them" (the bureaucrats).

The real effects are relatively new, because the state took its 7 billion dollars, gave 5 billion dollars to the public agencies for the 1979 budget year, and bailed them out. They had some problems, but they were able to make it. At the same time, the corporations in

California which own most of the business properties made out like bandits, saving over 3 billion dollars. The federal government lost 2 billion dollars in revenue because of reductions in income tax deductions. The very homeowners who had their taxes reduced, in fact, paid more taxes because of having less to deduct.

The long-range results are really devastating. One is the almost total loss of local control of school budgets in the state of California. Where school districts in the past were able to control their budgets (since they had the local tax), they then saw the state legislature become the battleground for bargaining over costs.

Alternatives to the Bilateral Model

John Pisapia

THE OPEN BARGAINING MODEL

The current dogma among public sector labor relations specialists is that only the public unions and public employers should have any significant roles to play during collective bargaining. When pressed they will grant the public a role during impasse but generally only when the fact-finders report is rejected.

Today, this dogma is under serious attack across the breadth of the United States. The inability of government to solve problems, the pervasive mistrust of government caused by the impact of Vietnam, Watergate, and Koreagate, and abuses of the public trust by politicians have encouraged citizens to seek broader participation in public employee labor relations, and led to a growing number of public sector observers questioning the applicability of the private sector bilateral model to public sector bargaining.

At the center of these doubts is the political nature of decision-making in the public sector. Historically, for example, low pay for teachers may merely have been a decision resulting from the pressure of special interest groups pursuing projects such as football stadiums, etc. When these pressures are strong, school boards may have exchanged low teacher salaries for one or more of these projects. Clearly, one cannot understand the nature of public sector bargaining without assessing the nature of the political relationships among the parties involved since the dynamics produced by these relationships ultimately balance the interests of teachers with the interests of the rest of the community.

The public sector labor relations environment has historically been characterized by traditional political interest group activities such as lobbying, electoral politics, litigation and interest group coalitions. Therefore, bargaining must occur not only with employee unions but also with other permanent and ad hoc interest groups. There is a general dissatisfaction and lack of confidence in current bilateral structures to accomplish these tasks.

The paragraphs that follow explore briefly the ramification of using the private sector model in the public sector. My purpose is to define and establish a common framework to observe, describe and assess modifications in the public sector bargaining model which hold great promise to incorporate all groups having vital interests in the reallocation of resources through collective bargaining.

The Application of the Private Sector Model

Given the political nature of public sector labor relations, the adoption of the private sector bargaining model, with its assumptions of bilateral negotiations, consumer constraint, adversarial relations, costs to employer and employee when impasse is reached, and freedom to withhold services has an inherent weakness when used in the public sector. Namely, there is limited access to bargaining by some groups which have a legitimate interest in the bargaining outcomes. Generally four groups are thought to have legitimate interests requiring accommodations in public sector labor policy: employees, management composed of elected or appointed officials and administrators, users of the services provided by the public employer, and those taxpayers whose money supports the provision of services.

Simply, the importation of the private sector bargaining model to the public sector has changed a unilateral multifaceted decision-making process, each interest group having an opportunity to influence decisions, services and allocations, to a structured closed bilateral process giving public employees exclusive access to the direct development of public policy. Clyde Summers says that other groups with legitimate interests in these decisions have difficulty articulating their concerns, are unaware of new decisions which affect them or cannot make their countervailing political pressure felt except by proxy through a representative governing board.[1] As previously noted, the prevalent public sector bargaining model incorporates the providers of services but not those who use or pay for them.

Ramifications of the Model

Some observers argue that the establishment of codetermination between unions and management means sharing or even surrendering of policy-making areas to groups that have no legal responsibility. Or, it gives unions the upper hand over citizen groups, who can only employ the political process to gain access to decision-making. They conclude that unions have a disproportionate share of the power. Another line of thought contends that it results in a shift in the locus of power to a new class of experts, union/management negotiators, union staffs and professional neutrals with the power to determine the public interest creating less democracy in the total political system. They contend, public policy is now negotiated not legislated.

Union Power. On the issue of union power, Harry H. Wellington and Ralph K. Winter contend that if one assumes that governmental political processes should be structured to insure that a legitimate group can make itself heard effectively at some crucial stage of the decision process then the full transplant of the private sector bargaining model institutionalizes union power in a way that leaves competing groups in the political process at a permanent and substantial disadvantage.[2] This conclusion is supported by Clyde Summers, who says that using the private sector model in the public sector gives the unions special status in governmental decision-making. He contends that this is not the pattern of our "normal" political interest group access to the decision-making processes of government as the predominant mode of influence.[3] Harry T. Edwards places the union power argument in yet another perspective:

> It cannot . . . be controverted that, in theory, decision on government priorities are properly political and should be responsive to the desires of the constituency as a whole rather than the values of a labor union. Yet, in reality, the process of

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[1] Clyde Summers, "Public Employee Bargaining: A Political Perspective," Yale Law Journal 83, p. 1164.

[2] Harry Wellington and Ralph Winter, Jr., "The Limits of Collective Bargaining in Public Employment," The Yale Law Journal 78 (June, 1969), p. 1123.

[3] Clyde Summers, op. cit., p. 1174.

> resources allocation in government is the outcome of a tug-of-war between many organized interest groups.[4]

According to this group of theorists, if you do not participate, you cannot protect your interests. They view political access building and utilization as a natural and legitimate tactic that historically has been the means by which interest groups pursue their objectives in the public policy-making processes. They contend that this avenue has been curtailed by adoption of the bilateral process. Other interest groups with legitimate but conflicting claims on government, not having any mechanism approaching the effectiveness of bilateral negotiations, are put at a signficant competitive disadvantage in the political decision-making process. This analysis induces two questions, does a strict bilateral labor relationship model based on the private sector labor experience serve the public interest? And, does the community and/or its elected leaders have an effective voice in the negotiating process? These theoretical concerns are yet to be clearly substantiated or reputed by empirical research. David Lewin, Peter Feuille and Thomas Kochan reported inconsistent findings on this point. They contend that the research on public sector bargaining outcomes tends to mitigate the fears expressed by many that public employee unions are able to exercise "excessive" bargaining power, or imply that public sector unions are more powerful than their private sector counterparts having achieved a comparable level of impacts in a much shorter period of time.[5]

Less Democracy. The political democrats argue that the bilateral nature of collective bargaining in government visibly alters the relative shares of power different individuals and groups hold in the formulation and implementation of public policy with a net impact of less democracy in the total political system. Their contention is that viewed from the perspective of democratic theory the political aspects of public sector collective bargaining have not received the attention they deserve. They do not rest their case on the nature of decisions reached, but on the process by which decisions are reached. Their assumption is that democracy is predicated on the concept of consent of the governed and that the basic direction of public institutions should be determined by the people who use and pay for them. They contend that public employee bargaining is attacking the long-held fundamental right of citizens to participate in governmental decisions, a right they say cannot be bargained away by public officials. They maintain that a democratic society requires the right to participate in governmental decisions, the right to an open and accessible government and the right to be well informed.

Summer, Wellington, and Winter advance the charge that public sector unionism diminishes democracy by requiring a sharing of public authority with private bodies that too often gain a disproportionate influence on governmental decisions. One public employee relations board member referring to teacher negotiations put it this way:

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[4] Harry T. Edwards, "The Emerging Duty of Bargain in the Public Sector," Michigan Law Review 71 (April 1973), p. 916.

[5] David Lewin, Peter Feuille and Thomas Kochan, Public Sector Labor Relations (Glen Ridge, N.J.: Thomas Horton & Doughters, 1977), p. 414.

> We'll have to assume that whoever is appointed is the best arbitrator available and that he'll look out for the interests of all people concerned about education; but the point is there is no place for citizen involvement in the whole process . . . what we have is an expanding scope of negotiations and we have outside influences taking over the process and therefore short circuiting any citizen impact.[6]

The validity of the arguments of the political democrats have gone generally unquestioned until recently. The practical question is, does public employee unionism diminish democracy? Sanford Cohen contends that these arguments had more validity in the 60's and early 70's when they were advanced. There are now several examples of public officials in major metropolitan centers that are standing firm against excessive union demands. He asserts that there is a variety of patterns of union power across the nation but they don't add up to union dominance. On the second point, he contends that democracy is only diminished if alternative avenues for effective influence by non-union interest groups are not available.[7]

The Multilateral Bargaining Model

Others note that when the bilateral model was applied to the political nature of the public sector a major adaptation-mulilateral bargaining occurred enabling community interest groups to advance their concerns to public decision-makers in spite of the attempts to keep them out.

By definition, "bargaining is multilateral when more than two groups are involved in the bargaining.[8] It is widely recognized that multilateral solutions have always operated in governmental decision-making. Behind-the-scenes pressure and "silent negotiations" with the superintendent's office or the Board of Education have frequently entered the "politics of bargaining." However, such third-party activity generally operates on the fringe of the bargaining process with most decisions made through the bilateral structure. For these groups to influence bargaining, they must be able to impose an economic, political or other cost on the parties to the agreement.

A quick appraisal of this multilateral framework might lead to the conclusion that non-union interest groups have adequate alternative avenues to protect their interests. A closer examination of the concept indicates that this is not necessarily the case. When Kenneth McLennan and Michael Moskow first investigated the phenomenon, and

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[6] Robert L. Ridgley, "Collective Bargaining and Community Involvement in Education: The Trouble with Negotiations" (mimeographed, Boston: League of Women Voters of Massachusetts, 1974), p. 6.

[7] Sanford Cohen, "Does Public Employee Unionism Diminish Democracy?" Industrial and Labor Relations Review 32 (January 1979), pp. 189-195.

[8] Kenneth McLennan and Michael Maskow, "Multilateral Bargaining in the Public Sector," Proceedings of the Industrial Relations Research Association (Madison, WI: Industrial Relations Research Association, 1968), p. 223.

"coined the phrase," they were focusing on the groups of users and providers of public services. They reported that theoretical considerations suggest that interest group activity is relatively high throughout the negotiaton process. This activity is reduced during the hard bargaining stages and increases prior to strike deadlines. At that time the interest groups switch their attention from the content of the agreement to pressure both parties to reach agreement without a work stoppage. This activity intensifies if a work stoppage occurs, then levels off as the community adjusts to the work stoppage.[9] But, when McLennan and Moskow applied their model to teacher negotiations, they found that these groups could only substitute as a market mechanism if they could impose a cost but the costs these groups could impose were limited. Their data revealed the absence of community participation in any critical decision-making role although their pressure group tactics were not totally discounted.[10]

Unions, as a participant and as an interest group, are in a much better position to impose a cost on management. When Kochan tested the multilateral model on fire-fighter negotiations, he found the involvement of community interest groups less common than "end runs" by the union or the involvement of elected officials at time of impasse.[11] Peter Feuille and Henry Juris's application of the concept to police negotiations yielded similar results. They found that the unions strengthened their bargaining positions by interactions with governmental actors other than the formally designated management negotiators. They reported that the multilateral conceptualization includes several kinds of union-management activities: traditional collective bargaining activities such as contract negotiations, grievance handling and work stoppages; and traditional political interest group activities such as lobbying, electoral support to candidates, litigation and interest group alliances, in order to strengthen their hand at the bargaining table.[12]

Many observers believe that public sector bargaining is more properly conceptualized through a multilateral framework which explicitly recognizes the interdependence of collective bargaining and traditional interest group activity in a political context, than through the bilateral framework. The multilateral bargaining framework depicted in Figure 1 is more supportive of the union power and less democracy theses of Wellington, Winter and Summer rather than Cohen's charge that their conceptualizations were more relevant in the late 60's and early 70's.

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[9] Ibid., p. 224.

[10] Charles Cheng, Altering Collective Bargaining (New York: Praeger Publishers, 1976), p. 123.

[11] Thomas Kochan, "A Theory of Multilateral Collective Bargaining in City Governments," Industrial and Labor Relations Review 27 (July 1974), p. 32.

[12] Harvey Juris and Peter Feuille, Police Unionism: Power and Impact in Public Sector Bargaining (Lexington, Mass.: D.C. Health, 1973), chapters 6, 7, and 8.

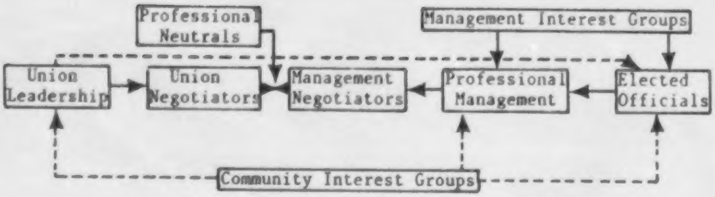

Figure 1

The Multilateral Bargaining Framework

The model portrays the critical key roles played by the new power holders--negotiators and neutrals--in the bargaining process. These groups make decisions that can affect the public interest. Yet, they are distantly removed from the direct impact of the environment. It is not without significance that most members of these groups advocate the continuation of the present bargaining structure.

It is also noted that in theory professional negotiators conduct the bargaining sessions and elected officials strictly control their actions. However, in practice the complexity of the bargaining process and the rising influence of professional negotiators and managers move office holders further away from the crucial arena where policy issues are raised and decided.

Community groups have no direct access to the bargaining itself, just to the participants. Although the mulilateral model indicates that informal political access routes are available to community interest groups, the cited research indicates that their influence is only felt when it is politically feasible to listen. The indications are that office holders respond to their strongest best organized constituency which appears to be unions. While avenues to both unions and management positions are available, McLennan and Moskow reported that citizen groups concentrated all their attention on trying to influence the board rather than the union.[13] One necessary condition for bargaining to be multilateral is that interest groups pursue their goals by trying to influence the parties directly involved in the negotiations, yet almost no attempts were made by community interest groups to contact the union. One could conclude that the public thinks they have little in common with union positions.

The substantial competitive advantage public employee unions have over other interest groups through their central role in bargaining and their use of 'end run' strategies is also evident in the mode. As Kochan's research points out, the use of political pressure in bargaining by the union "provides strong evidence that when city officials are in a position of choosing between their roles as management officials involved in a bargaining situation and their roles as elected officials responsive to their constituencies, their roles as politicians take precedence."[14]

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[13] McLennan and Moskow, op. cit., p. 223.

In summarizing the use of multilateral practices, it is widely recognized that political pressure and public management is elected. This creates the possibility of an 'end run' because principals on management's side are often elected or appointed officials susceptible to political powers of persuasion. In fact, they sometimes have been elected through the support of the employee organization. These phenomena have given rise to union tactics to break down management coalitions.

Changing the Model

As previously described, community interest groups, spurred on by fears of losing control over the types and amounts of services provided and increasing tax burdens, are seeking a bargaining model which grants them a greater voice in the bargaining process. They contend that the adoption of the private sector model has affected policy making in the public sector by changing a multifaceted process of influencing governmental decision to a closed bilateral process. It incorporates the providers of public services but not those who use or pay for them.

Most scholars respect the right of employees to be recognized and to bargain with their employer. Clyde Summers cites the primary justification for granting employees bargaining rights in that it gives them increased political effectiveness to help them balance the massed political resistance of taxpayers and users of public services.[15] The problem is how do you design a structure which provides enough influence for employees to affect issues where their vital interests are at stake while at the same time not precluding community interest groups from pursuing their own vital interests in the bargaining process. David Lewin summarizes this dilemma as a conflict of two goals: (1) to develop an efficient bilateral negotiations process where management acts as unified team and the union applies pressure through formal negotiations, and 2) to maintain multiple points of access required for an effective democratic decision-making process.[16]

As early as 1972, Thomas Love and George Sulzner concluded that the incorporation of the private sector model will intensify the focus on bureaucracy and elitism in government, and result in a further erosion of the citizen's capacity to govern his affairs. They continued, it is possible to conceive of developments which could preserve democracy. They hypothesized that the professionalization of collective bargaining in the public sector will lead to the development of third-party formal participation in employer-employee decisions.[17]

Today, the public sector bargaining model is changing much in the way Love and Sulzner envisioned by incorporationg disenfranchised groups into the bargaining process. Public sector decision processes have evolved from unilateral to bilateral to multilateral structures.

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[14] Kochan, op. cit., p. 36.

[15] Summers, op. cit., p. 1168.

[16] David Lewin, Peter Feuille and Thomas Kochan, "The Political Context," in Lewin, Feuille and Kochan (eds.), Public Sector Labor Relations (Glen Ridge, N.J.: Thomas Horton and Daughters), 1977, p. 37.

[17] Thomas Love and George Sulzner, op. cit., p. 25.

While some members of the public call for direct participation with an equal voice in the discussions (trilateralism), many other seeing their major interests aligned with management just seek formal access to information and the bilateral bargaining sessions.

Generally, it is thought that the public can be accommodated either through representation at decision points or through participation in the collective bargaining process. Those fearing accommodation through participation or trilateralism would lead to the destruction of the process argue that the public's "right to know" must be balanced. Nelson Rockefeller, when Governor of New York, expressed this point of view:

> The public has a right to know the full details of agreements reached with public employee groups. More often than not, these agreements involve large sums of public funds. At the same time, every effort should be made to avoid interference with the collective bargaining process.[18]

Trilateral Practices

As we have observed in some public employee jurisdictions this balance is being reached by providing citizens representation at decisional points in the collective bargaining process through an open bargaining model which includes such practices as disclosure of bargaining proposals, access to bargaining records, allowing public members to observe the bargaining sessions, and public hearings on the contracts prior to ratification. I have identified practices of this nature as trilateral practices.

Trilateral practices are those structural components of open bargaining which expose the bargaining process to the scrutiny of third parties of interest. They differ from trilateral bargaining which describes negotiations that are held among three parties on interest each with an equal voice in discussions. They differ also from multilateral practices that operate from an informal political influence base which denies certain community members access to the bargaining process. Trilateral practices provide visibility and accessibility of decisions reached in bargaining. This means that interest groups seeking to influence those decisions are provided multiple structural access points. The relationship of the four decisional modes to trilateral practices is pictured in Figure 2 and depicts the evolution of public bargaining decision structures.

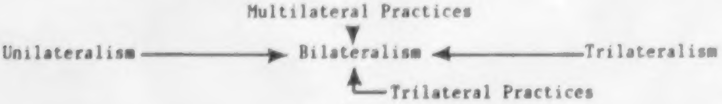

Figure 2

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[18] Elsie Gravensen, "Review: Special Report of the Labor Management Relations Service," Citizen Action in Education, September 1977, p. 12.

The Evolution Public Bargaining Decision Structures

Public sector decision making has evolved from unilateralism to bilateralism. The multilateral component provided informal political access routes to influence bargaining which was still conducted through the bilateral mode. Further adaptations were required to protect the public interests. While more radical members would like to move to pure trilateral bargaining processes, currently an intermediate and maybe final adaptation, trilateral practices, is being used to reinfranchise excluded groups with vital interests in the bilateral outcomes. These trilateral practices continue to operate through the bilateral model. Yet, some of the practices do push the bilateral model toward forms of trilateralism. The incorporation of these trilateral practices add the consumer constraint concept to the public sector bargaining model, but still retain most of its bilateral components. The various trilateral practices identified have been placed in the following analytical framework to assist future study in this field:

TABLE 1

Trilateral Practices
A Framework for Analysis

CATEGORY I - Trilateral Prebargaining Practices

- SUBCATEGORY A: Citizen Practices
  - Practice 1: Informed statewide citizen information networks.
  - Practice 2: Conduct opinion surveys before bargaining.
- SUBCATEGORY B: Board Practices
  - Practice 3: Establish citizen study teams and/or advisory groups.
  - Practice 4: Public disclosure of initial proposals.
  - Practice 5: Open strategy sessions with chief negotiator.
- SUBCATEGORY C: Union Practices
  - Practice 6: Explain intent of their proposals to citizens before bargaining begins.
  - Practice 7: Establish citizen advisory groups.

CATEGORY II - Trilateral Bargaining Practices

- SUBCATEGORY D: Closed Session Practices
  - Practice 8: Disclose new subjects placed on table.
  - Practice 9: Maintain open records of sessions.
  - Practice 10: Permit public representatives to observe the meetings.
- SUBCATEGORY E: Open Session Practices
  - Practice 11: Permit anyone to view sessions.
  - Practice 12: Provide public copies of materials exchanged between parties.
  - Practice 13: Video/Audio cast sessions.

SUBCATEGORY F: Voice Practices
Practice 14: Place public reprensentative on bargaining team.
Practice 15: Recognize a 3rd force at the table (multiparty bargaining).
Practice 16: Allow public to comment on negotiations at regular meeting of governing board.
Practice 17: Allow public to comment on negotiations at the end of each negotiation session.

CATEGORY III - Trilateral Dispute Practices

SUBCATEGORY G: Mediation Practices
Practice 18: Open mediation hearings.
Practice 19: Public disclosure of mediation information.

SUBCATEGORY H: Fact-Finding Practices
Practice 20: Open fact-finding hearings.
Practice 21: Public disclosure of fact-finding report.

SUBCATEGORY I: Arbitration Practices
Practice 22: Open arbitration hearings.
Practice 23: Public disclosure of arbitrator's report.
Practice 24: Public referendum on arbitrator's report.

CATEOGRY IV - Trilateral Post Bargaining Practices

SUBCATEGORY J: Closed Practices
Practice 25: Receive report from third-party observers.

SUBCATEGORY K: Ratification Practices
Practice 26: Allow public representative to ratify for the public.
Practice 27: Hold public hearings prior to ratification.
Practice 28: Ratify and discuss contract at open meeting.
Practice 29: Hold public referendum on contract.

Their occurrences coincide with phases of bargaining process--pre, during, dispute and post bargaining. They are described briefly under prebargaining practices, bargaining practices, dispute practices and postbargaining practices.

Prebargaining Practices. Trilateral prebargaining practices are geared to keeping the public informed and testing the public's will to support the proposals. Employed before bargaining begins, they encourage citizen groups, governing bodies, and unions to seek community input during the formulation of their proposals. These practices are used by citizens, management and unions. Trilateral prebargaining practices that citizens' groups can employ to keep informed include developing statewide networks to identify citizen information needs conducting surveys, or establishing temporary citizen study teams. Management prebargaining practices include forming policy advisory groups to sample public opinion, propose issues, react to management/union positions prior to bargaining, or to keep informed of citizen concerns. Additionally, management can apply other prebargaining practices such as making union proposals public to test citizen reaction and providing for hearing to obtain public comments before developing and making their own proposals public. In some instances, even unions have resorted to trilateral prebargaining practices, making their proposals public to test citizen reaction, before submitting them to the management negotiators.

Bargaining Practices. Trilateral bargaining practices used during bargaining sessions range from simple observation to an actual voice in the discussions. Citizens use them to influence bargaining outcomes and keep informed on bargaining progress. Three types of trilateral bargaining practices used are closed session practices, open session practices, and voice practices.

Closed-session practices include 1) new subjects made public within 24 hours and 2) third-party observers reporting on bargaining progress to the public or board. Open session practices give the public no voice in the proceedings but permit observers at the bargaining sessions. Trilateral bargaining practices providing copies of session materials for observers, telecasting the sessions, and permitting the public and press to view the sessions have been used with varying degrees of success. Voice practices give the public a voice at the table during discussions. Voice practices such as multiparty bargaining, using public interest representatives in discussions or as advisors at the table tend to be the most controversial of the trilateral practices currently utilized.

Dispute Practices. Trilateral dispute practices grant the public access to impasse procedures nd keep them informed of bargaining progress and outcomes. They include holding open hearings and disclosing information, facts, or decisions in each of the accepted dispute resolution mechanisms: mediation, fact-finding, and arbitration. Arbitration, currently the most controversial mechanism in the public sector has given birth to the unique trilateral practice of submitting the impasse to a referendum of qualified votes.

Postbargaining Practices. Trilateral postbargaining practices are used after a settlement between two parties to grant citizens the opportunity to review and influence before they are signed. In fact, trilateral postbargaining practices are thought to be the appropriate channel for citizen scrutiny and access. Postbargaining practices such as third-party observers reporting to the public body, open hearings before ratification to allow citizen input, and a public interest representative signing for the public are the least controversial of all trilateral practices.

Given the appearance of these trilateral practices it is safe to assume that the collective bargaining model imported from the private sector is changing to meet the unique needs of the public sector and giving rise to an open public sector bargaining model which repoliticizes the bilateral process.

The Open Bargaining Model

The addition of trilateral practices in the Public Sector creates a more open bargaining model and gives great promise to incoporate all groups having vital interests in the reallocation of resource through collective bargaining.

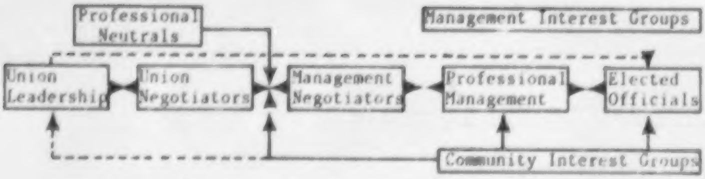

Figure 3

The Open Bargaining Model

Open bargaining should establish a more efficient, although sometimes more chaotic, bilateral negotiations process because it encourages management to act as management. The visibility the trilateral practices provide to the bargaining process should limit the union's ability to make "end runs." Although the strength of the union's political strength and tactics will not eliminate the power of "end runs" altogether, their effect will be reduced because other interest groups having more knowledge of the bargaining positions will be able to use their countervailing power more effectively. Thereby elected and appointed officials will be held more accountable by their public constituency.

The formal structural access points the trilateral practices provide should go far towards maintaining the multiple points of access required for effective democracy. The access citizens have to information, issues, and alternative solutions will enable them to bring their influence to bear on both sides of the negotiating table when issues being discussed are vital to their interests. Together, the visibility and access trilateral practices provide should introduce the consumer constraint mechanism to public sector bargaining.

Gayle Dixon

October 1977 marked the beginning of public access to collective bargaining in the Rochester City School District. Any attempts to examine Rochester's unique arrangement must be prefaced with a brief history and characterization of the district and city as a whole, relating specifically those conditions which have set the pace for the evolution of parent involvement.

It is not overly simplistic to say that open meetings laws and sunshine laws are a result of general dissatisfaction and distrust of government institutions, but it is overly simplistic to say that that is the sole reason for Rochester's policy on collective bargaining.

The Board of Education, since 1971, prior to the Open Meetings Law, has allowed the public and press to be present for executive and study sessions. During this period, the change from partisan to nonpartisan status of the Board of Education possibly supplied further impetus for this "open door" direction. Concurrently, a fading of the local political ward organizations gave way to the rise of the neighborhood and community organizations which began to provide the kinds of services formerly provided by those political bodies. Thus, in Rochester, there is a tradition, albeit short, of community groups organized outside the political process having impact on the political system. The above factors coupled with stands taken by statewide and national public interest groups have created an inviting climate for parent involvement in Rochester.

From the early 70's the Board of Education has cooperated with various community groups, such as Community Schools Council, Rochester Council of Parent Teachers Associations, Bilingual Education Council and the Parents Advisory Council. Negotiated agreements were entered into with two of the above organizations. Community Schools Councils are found in 10 schools receiving or eligible for Title I funds. The Bilingual Education Council was formed by those parents seeking a voice in the selection of employees in the bilingual program. In 1971 the Parents Advisory Council was brought into existence in an effort to promote voluntary integration and was composed primarily of parents falling into neither of the preceding groups. (Of course, Rochester had its advisory committees mandated by law, e.g., Title I, Model Cities.)

Working with these groups and others led, for better or worse, to the recognition of the need to formalize parent involvement districtwise. This formalization effort resulted in the 1976 adoption of the Board of Education's Parent Involvement Policy--a document delineating those areas where parents may participate in the educational decision-making process. Among those areas listed were capital and operating budget, instruction, discipline, grading, building utilization, special education and special services. It is not surprising, having come this far, that the Rochester community would also address the area of collective bargaining and state the following in Section 5 of that policy:

> 5. Employee negotiations
>
> Prior to presentation to the Board of Education, Parent Leadership* shall have the opportunity to help

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*At the District level, parent representatives from at least one of the following groups shall have input into decisions: Bilingual Education Council, Community

> develop the District's position in collective bargaining with its employees through meeting(s) with the Board's negotiator and members of the negotiating team before the package is developed. Parent Leadership shall have the opportunity to meet regularly with the negotiator and/or members of the negotiating team before the package is developed. Parent Leadership shall have the opportunity to meet regularly with the negotiator and/or members of the negotiating team throughout the negotiations process to be kept informed of progress and to provide parental input.
>
> The Superintendent shall designate a parent representative as part of the District negotiating team. The representative shall be chosen from a list of at least six persons submitted by the Parent Leadership to the Superintendent no later than October 15 of the year preceding contract negotiations. This representative shall, as a member of the District's team, abide by all the guidelines set for members of the team. Caucuses of the District's team shall be restricted to its members as appointed pursuant to contract by the Board and Superintendent.

School Council, Parent Advisory Council, District Advisory Council, District Advisory Council to Title I, or Parent Teacher Association. (The heads of these groups are known as Parent Leadership.)

Involvement in collective bargaining was not an issue in and of itself, but rather a part of the broader scheme to meet community demands for participation at all levels of educational decision-making. Parent advocates of the Parent Involvement Policy focused on Section Five only when other demands were blocked, e.g., the selection of principals by the community. This proposal met with Board and administrative opposition, but eventually survived in its present form, due in part to the willingness of the District's negotiator to "live with" the situation and an absence of strong resistance from the Board of Education.

A parent on the District's negotiating team is not a completely foreign element, inasmuch as administrators are accustomed to parents' presence on a variety of committees and task forces previously established by the Board of Education. The question of the legality of a parent's presence at bargaining was, in effect, circumvented. The current teachers' contract allows either party to have consultants, competent professional or lay representatives, during negotiations. The question of parent representation has therefore not been raised by the teachers' union.

Before you conclude that a "parents' utopia" exists in upstate New York, let me hasten to say, "It just ain't so." Many structures are in place to allow parent participation, but those structures are not always utilized effectively or significantly and any lack of success may be attributed in varying degrees to administrators, board members and parents.

Bargaining in Rochester

Bargaining in the Rochester City School District predates the Taylor Law. Since 1965 the Board of Education has negotiated with its teachers. Presently there are four major bargaining units in the district and one small unit of Career Skills teachers of adults. Also there is a petition before the Public Employment Relations Board (PERB) for recognition of a per diem substitute unit.

The major bargaining units are: the Rochester Teachers Association (RTA) with approximately 2300 members; the Administrative-Supervisory unit (AS) with roughly 325 members, including principals, vice-principals, deans and department heads; the Teacher Aides Association of Rochester (TAAR), having about 450 members; and a 1500-member unit of non-teaching personnel--BENTE (Board of Education Non-Teaching Employees), an AFSCME local. With the exception of BENTE, the above described units fall under the umbrella of the Rochester Teachers Association and are affiliated with the New York State United Teachers (NYSUT). This makes for a most interesting situation, to have teachers and administrators grouped together. Consequently, in a city school district with 38,000 pupils and approximately 60 building locations, there are only 30 administrators exempted from bargaining. This fact, added to the grouping of teachers, administrators and aides into one family, certainly provides an imbalance of power from a parent perspective.

1977 saw a new ingredient added to the mix--a parent. In keeping with the Parent Involvement Policy, parent leaders around the district convened in September 1977 and began compiling the list of six names to submit to the Superintendent of Schools. In conjunction with the City School District and the Rochester Teachers Association, the Urban League of Rochester sponsored a workshop to acquaint interested parents with collective bargaining. Eric Lawson, regional director for PERB in western New York, gave an overview of the process and discussed the Taylor Law. Adam Kaufman, counsel and negotiator for the City School District, and David O'Keefe, executive director for the Rochester Teachers Association, described the history of bargaining in Rochester, giving details and answering questions about negotiations in 1975. Parent leaders, after an interviewing and screening procedure, submitted six names ot the Superintendent, and I was selected from that list to serve as the parent representative to the negotiating team.

The issue of how representative I am and in fact whom do I represent is not one that can be addressed in absolutes. At no time have I purported to be the voice of all parents in the Rochester City School District. It would require an ego of monumental proportions to allege such a claim. However, my network of contracts with parents has been an attempt at achieving that cross-section of community opinion. The composition of that network will be described more fully later.

On October 20, 1977, the Superintendent of Schools announced my selection, and the first internal meeting for the District's negotiating team was scheduled for October 21. Twenty-four hours is hardly enough time to prepare, especially when one is so unaware of the extent of one's ignorance. The old saying "ignorance is bliss" was most applicable as I attended that first team meeting confident of learning whatever would prove necessary.

The negotiating team was composed of counsel and chief negotiator for the District, Adam Kaufman, myself and eight top administrators representing major departments in the district--budget, special education, instruction, elementary and secondary administration, personnel and compensatory education.

The October 21 meeting began the pre-bargaining stage. Prebargaining spanned a period of three months, during which the negotiating team met internally nine times with the length of the meetings ranging from two to six hours. The contract was covered section by section with modifications and deletions being made where it was thought to be necessary or prudent.

In addition to meeting with the team, I also met frequently with leaders and representatives of the six major parent groups in the district--Community Schools Council, District Advisory Committee to Title I, Rochester Council of Parent Teachers Associations, Parents Advisory Council, Bilingual Education Council and the Pre-School Parents Council. This core group constituted a fairly representative cross-section of parents and will be referred to as Parent Leadershop with the understanding that more than six parent leaders were involved. No interested parties were excluded from the group, but people were encouraged to attend regularly, in order to avoid valuable time being spent bringing truants up to date.

Pre-bargaining was the only period of time that a degree of confidentially was maintained. When meeting with parents, I would indicate the main areas of the contract being addressed and solicit parent responses and opinions to be taken back to the other team members. One such meeting included the District's negotiator so he could hear "first hand" parent concerns.

Two proposals in the District's package have been termed the "Parent Proposals" because they are additions obviously included at my request based on needs expressed by many parents. The proposals ask for a commitment from teachers to parent involvement and the establishment of a joint committee, composed of teachers, parents, and administrators, to study the feasibility of parent input in teacher evaluation.

Once the negotiating team had completed the package of initial positions it was presented to the Board of Education. Thesse presentations were accomplished during the month of January with no significant changes made by the Board.

Packages were exchanged with the union on February 1, 1978, and there was a scurry to see which side could schedule the earlier press conference. All proposals were public information with copies made available to parents, community groups and the news media. The first bargaining session was scheduled, at the union's request, for February 28, 1978.

The exchange and public release of proposals increased community interest and therefore increased the amount of time I felt obliged to be in contact with parents. Five Saturday mornings in the months of Feburary and March were designated for meetings with the expanded parent leadership group. The initial intent was for Adam Kaufman and me to explain the District's position and attempt to give our interpretation of the union's demands. Parent leadership invited the union negotiating committee to provide this insight, but the invitation was declined with the explanation that such an attempt was premature and might be more productive further into bargaining. This meeting never materialized.

It was soon evident and certainly not unexpected that most parents in the group were unfamiliar with bargaining in general and knew little of the history of the existing contract, its advantages, disadvantages, and relative comparison to contracts outside Rochester. Copies of the contract were made available to parents and much time was spent on these issues. Kaufman's presence was invaluable, in fact essential for this exchange of information to occur. The Saturday meetings were also used for negotiations updates.

Taking place at the same time was the City School District's spring ritual--the budget process; a public procedure involving not only parents and community people, but also union representatives. On April 15, 1978, the Board of Education passed a tentative budget allocating monies for contract settlements. The monies were not of the magnitude desired by the unions, but at least there was something in place and everyone knew it. There was no immediate economic offer made at the bargaining table.

Things moved rather slowly in bargaining through March, April and the first days of May. The union and district negotiating committees met six times. There was great difficulty in arranging meetings because of the vast numbers (roughly 18) already planned for the Budget Advisory Committee. This type of difficulty would again be encountered in late May and June with the closing of school and an unforeseen budget crisis.

Proposals and counter-proposals were made; however, progress was minute. The district did not offer money, and the union appeared unwilling to move until there was some indication of the district's intention concerning the economic items.

The format for many of the bargaining sessions did not include the entire teams. It was suggested in May that only the negotiators meet. This arrangement was unacceptable to Adam Kaufman and me since it was understood that I was either included at all times, or I would not serve on the team. Therefore, the participants became the negotiator for the teachers, the chairperson for the union negotiating committee, Adam Kaufman and myself. This smaller group would meet, exchange proposals, talk and then return to their respective teams for caucuses. This format was also used for two of the three mediation sessions and the four meetings that followed fact-finding.

The Ides of May brought an event which would restructure negotiations--the Waldert decision. The "Waldert Tax Case" was to become a household phrase across the city. The Court of Appeals decided again in that case that it was unconstitutional for the city of Rochester (as well as Buffalo and 56 other school districts and cities) to continue taxing beyond its 2% constitutional limit for retirement and social security benefits--a tax that had been allowed for several years under special state legislation. Simply stated, the city and City School District were forced to cut their budgets by $32 million. After passage of a variety of local laws, including numbers of user fees, by June 1978 the Board of Education was forced to trim its budget in excess of $6,000,000. Included in that $6,000,000 were the monies previously allocated for contract settlements.

In the three bargaining sessions that occurred between mid-May and June 30, the union's position became very clear. They would or could not negotiate until money was available. The Board of Education refused to make further cuts in programs. Hemce, on July 6, 1978, impasse was declared and both sides awaited the appointment of a mediator.

PERB-appointed mediator Howard Foster scheduled the first mediation session for July 31. This gathering lasted twelve hours. Two more such sessions were to follow in August. There was some movement by both sides, but not sufficient to avoid a twelve-hour fact-finding hearing on September 15. Since each side presented briefs in excess of 400 pages, there was concern that Dr. Foster might never emerge from under this mound of papers. In fact, exactly four weeks would elapse before we were enlightened with his words of wisdom.

We received the fact-finder's report on October 13, and copies of the fifty-five-page document were distributed to the negotiating team and the Board of Education that afternoon. Both groups were instructed by Adam Kaufman to read the entire report before reacting, thus considering it as a whole, not in bits and pieces.

Although by statute such reports are confidential for five days, it is not uncommon for leaks to occur. In this situation the union and the district felt it was in the best interest of bargaining that confidentiality be maintained over the weekend, and that public positions not be taken until the recommendations were carefully considered. This slow and easy approach to the report proved to be very wise. Neither side was publicly or prematurely locked into definite positions, consequently allowing greater flexibility in the final days of bargaining.

On October 16 an internal meeting of the district's negotiating team was held, and the general consensus was one of satisfaction with the thoroughness and fairness of the fact-finder and a willingness to recommend to the Board that this document be used as the basis for a settlement with the teachers. Later, on the 16th, the Board of Education, likewise, indicated a general acceptance of the report, and bargaining with the RTA was scheduled to resume on October 18. The District released the report the following morning and copies were made available to the public. Kaufman and I met with parent leadership to go over details of the report and ask their opinions.

Prior to meeting with the RTA on October 18, there was a special session with the Board of Education to discuss money. Various alternatives for funding the fact-finder's suggested wage increase were presented by the administration to the Board, and the negotiating team was given direction for raises in the first year. For the first time since the Waldert decision in May, the Board moved off its "no raise" position. No vote was taken, and since Kaufman only asked for parameters, a specific amount was not discussed. This movement was due to the recognition that some pay increase was not only fair, but also necessary if schools were to remain open. The president of the union had stated publicly a week earlier that the teachers would strike if the economic items in the contract were not addressed. The fact-finder's report added strength to the union stand, and a strike appeared possible if not imminent.

The most significant outcome of the October 18 bargaining session was the district's poroposal for a $100 pay increase for each teacher. This proposal was rejected by the union on October 20 and described as "lousy" by the union president. However, the quality not the quantity of the proposal was the key factor, and I am sure, despite their public statements, the union leadership did not mistinterpret this telling offer--the Board was willing to talk money. The offer was also designed to diffuse rank and file support for a strike. After this session the union leadership no longer publicly asked the District to borrow from the state loan fund set up as a result of Waldert. Ironically, the Board of Education was just beginning to explore that facet of funding. The offer also seemed to lower teacher expectations. Although both sides made concessions on the 20th, it was decided that further bargaining attempts would only prove productive if a third party were present. Eric Lawson was assigned immediately by PERB to act as a conciliator for the remainder of negotiations.

At this point District officials met with the editorial board of the Gannett newspapers. This meeting resulted in two important editorials which increased public awareness of the issues at hand and set the tone for community and ultimately union reaction. The articles were a fair assessment of respective positions and the eventual agreement to be anticipated. The economic recommendations in the fact-finding report were published in full and the helplessness of both sides was acknowledged.

Eric Lawson convened the negotiating team on October 24 at 111 East Avenue. After eleven hours minor issues were resolved, but the major items were still open, e.g., salaries, agency fee, parent involvement in teacher evaluations, vacancies and transfers. Both parties agreed to continue talks on October 27.

It was clear to all involved that money was the critical issue. If acceptable pay raises were offered, the other outstanding issues would fall into place. Much time was spent on the 27th calculating various proposals the district could make with the monies for raises, which would be viewed as acceptable by the Board of Education. Throughout the evening, Lawson met several times with Adam Kaufman and me as represetnatives of the district's team to assess what the team was willing to accept. He also talked with the union negotiator and president in an effort to obtain the same information from the teachers. At one point, about 5 a.m., there was a joint meeting of the above five people. During this meeting it became evident that the union leadership was weighing carefully the district's position. The desire to reach an agreement and avoid leading a strike was quite clear.

Shortly after dawn on the 28th, Lawson presented to each team a proposal that he hoped would resemble if not actually be the final settlement. With one exception, Lawson proposed exactly what Kaufman had been saying would be the best the RTA could expect. The one exception was the section on a committee to study parent involvement in teacher evaluation. The conciliator's language describing this committee was unacceptable. After discussing the proposal with other team members, Kaufman telephoned the union negoitator and suggested that he and the president of the union meet Kaufman and me in the hotel lobby. From there we walked to the Manhattan Restaurant, where we worked out the final basis for a contract. The district's negotiating team and the Board of Education readily accepted these final conditions. However, it was another two hours before the teachers announced their approval. After nine months of bargaining a group of very tired and greatly relieved people could go home.

The final settlement called for 1.5 percent salary increase, effective February 1, 1979, plus increments (annual raises for many teachers based on experience) that range from 4 to 8 percent of the base salary. This is well below the fact-finder's recommendations. The agreement also provided that no teacher would receive less than $300 the first year, and on July 1, 1979, they are to receive an additional 4 percent raise plus increments.

The dispute over a committee to study parent involvement in teacher evaluation was resolved by dropping the word "evaluation" and establishing a council to review the communication and relationship among school, teacher and community.

Throughout the above epoch, Kaufman and I continued to meet with parent leadership and discuss the status of bargaining. Copies of proposals and counterproposals that had been exchanged were duplicated and distributed. The parents were equally, if not better, informed than the Board of Education.

There were several issues in the contract of interest to parents--parent-teacher reports, parent-teacher conferences, teaching hours, discipline of students, and evaluation of teachers. The Rochester Teachers Association had proposals in three of these areas that were not at all satisfactory to parents. Until the recent financial crisis resulting from the Waldert decision, the economic items in the contract were not the first priority of parents in the community. Salaries and benefits impact on us as taxpayers, but only became a focal point when the Board of Education was forced to take a "no raise" position and the President of the teachers' union stated teachers would strike if money was not forthcoming. Parents and community prior to Waldert were willing to accept the Board's allocation of money in the budget for salary increases.

Of necessity, my following remarks will be confined to the experience in Rochester and to this particular round of bargaining. Some of the comments may sound naive and some probably are, but to my knowledge this is the first time an outsider has watched and fully participated in what some people believe to be a quasi-mystical process. Hopefully, this lack of sophistication will not diminish the value of my perceptions.

Because of the very nature of the negotiations process, parent involvement can be easily impeded and the parent participant excluded. The Rochester experience was otherwise. It is fair to say that I was intimately involved with every aspect of this round of bargaining, and as a result may be more aware of what has happened in negotiations than even other members of the district's team. This situation arose when the bargaining and mediation sessions were limited to the negotiators and one member of each team. I was always the representative from the district's team to accompany Adam Kaufman. My presence in this smaller group possibly added credibility to statements made by the district's negotiator, but in some respects this may have caused internal problems. Some members may have felt excluded, which increased the pressure on Kaufman and me to update and inform those members. However, the exclusion of the entire team possibly allowed the negotiator to influence compromise that might not have occurred otherwise.

A second aspect of involvement was my presence at all closed sessions of the Board of Education at which the subject of bargaining was discussed. While it is difficult to assess my impact, there appeared to be a keen awareness on the part of Board members that their performance was being observed. Whether that awareness resulted in more responsive decision-making is unclear. However, the Board, I am told, did less negotiating with its negotiator and team than in the past and attempted to deal with the issues on a substamtive basis. Of course, I have formed opinions about the individual competencies of each member of the Board, but this is neither the time nor the place to comment.

It has not been my experience that because of heat generated at the bargaining table, school administrators tend to be more susceptible to union proposals. If anything, the administrators I have witnessed become more rigid. In Rochester, the Board of Education is not at the table and is somewhat removed from the pressure of bargaining. However, they are exposed to the public rumblings of the union and because of what I view as the inherent nature of school boards are more susceptible to union demands.

My perceptions of the union negotiating committee are based on the negotiator, the committee chairperson and the president. They are the only people with whom I have talked to any extent.

A NYSUT field representative was spokesperson for the union. I am inclined to think his not being a member of the bargaining unit occassionally thwarted attempts to move the union team toward compromise. Whether by design or not he seemed unable to assess what was palatable to this team and could not contradict or overcome the individual positions of the chairperson of the team. He made it quite clear that the union was unwilling to bargain with parents and the specific proposals dealing with parent involvement and teacher evaluation were not welcomed with open arms.

The structure of parent participation in collective bargaining in itself is not as important as the commitment of the Board of Educaton and the administration to its success. Probably the key person in implementing any form of participation is the negotiator. Adam Kaufman, the District's counsel and negotiator, has shown a great commitment. His acceptance of me as an equal team member set the tone for my acceptance as such by others involved. A willingness to meet and talk at length with parents about negotiations now and in the past has been the basis for the education of parents and the community in collective bargaining.

Working with Kaufman has convinced me of the advantage of having someone within the system serve as the negotiator. Not only does he administer the contract, but also he must live and work with all people involved once bargaining has ended. The fact that Kaufman is a city resident, with a child in the city school system, adds to his credibility in the community.

An important by-product of this particular form of parent participation has been the increased dialogue between parents and the district. This dialogue might not have been as extensive and informal under other structures, e.g., sunshine bargaining, third-party bargaining or mediator roles. Although parents have not and most likely will not always agree with the district, there is greater empathy out there for the mode of operations, particularly in relationship to bargaining.

Parent participation on the employer's bargaining team requires not only cooperation but also commitment from the employer. There need be only a few key people committed, but those few are absolutely essential. Therefore, only districts with similar histories of attempted openness and involvement will achieve any degree of success with this particular format of public access.

Margaret Jacques

In 1964, when I was first elected to school committee, collective bargaining was still in our future. The teachers were allowed to have an audience with the school committee once a year to present their request for a salary increase. The committee usually discussed the request briefly prior to giving the teachers leave to depart. The committee was generally unresponsive to the teachers. The passage of the collective bargaining law was, therefore, not a surprise to me; it was inevitable. Frankly, I was embarrassed to have been part of that pre-collective bargaining model. It was humiliating to the teachers; they were robbed of any dignity they brought into the room. They were ripe for the process which would make them equals with the school committee.

When change came, we had a collective bargaining law which was implemented in the public sector according to the patterns set by the private sector, except in the area of impasse resolution.

We had no strikes because the law required us to provide continuity of service; we had no interest arbitration because we could not raise our prices to generate more revenue. We bargained behind closed doors because that was the practice in the private sector. Except, for some reason which I cannot recall, my school committee proposed that we bargain in public, and we did. The community has come to expect this and the practice has carried over into our negotiations with other bargaining units.

Obviously, we believe that there are some advantages for us in open negotiations. It is said that sunshine bargaining keeps ridiculous offers and proposals off the table. Not necessarily. The first proposal we received in this round of bargaining opened with a ridiculous provision for paid holidays, all of them, including July Fourth and Labor Day. The most important advantage to the school committee and to the community is the opportunity for the public to evaluate the final agreement in terms of the starting point. In many cases, the agreement arrived at behind those doors may seem to us to be outrageous. We might have a different view had we been able to observe the process and could be aware of what each side had to give to finalize the agreement.

The press sometimes presents a problem. They do not attend bargaining sessions on a regular basis; they show up when the word gets around that there is controversy about a particular issue. Since this is what is reported from time to time, the public assumes that the process is totally controversial. Part of our problem with the media is our fault since we do not do a very good job with public relations. To have a staff person for public relations in our small school system is unthinkable; but our administrators have neither the time nor the temperament, in some cases, to handle the press. School committee people are generally not available during the day. But, after two or three o'clock, the teachers are willing and anxious to meet with the media. So our problem with the press is two-fold: we do not use the media to our own advantage as well as we might, and the press tends to create controversy by heating up situations which occur in the normal course of negotiations.

"Posturing" and "playacting" are usually cited as characteristics of public negotiations. I can tell you that they are part of private bargaining as well, at least in my limited experience with teacher unions that has been the case. Public bargaining may take longer than it otherwise might, increasing the expense when a professional negotiator is employed. And positions tend to become hardened. Once a negotiator has said in public, "I'll never negotiate that away," it is very difficult to back away from that position gracefully. The trick, of course, is to never say "never." Furthermore, I am told that the language used by the parties is cleaned up considerably in open session bargaining.

"So," you ask, "if open bargaining is such a great idea how come everyone isn't doing it that way?" Well, many people think it's not such a great idea. It is not easy to do in Massachusetts. In addition to the fact that many professional negotiators refuse to accept an assignment to bargain in public, the Massachusetts Labor Relations Commission (MLRC) has ruled in a number of cases that, unless both parties agree to open sessions, then the doors must be closed. My school committee happens to have been sustained in a case before the MLRC. However, the question will probably surface again and we may lose the right to open session at some point.

The Labor Relations Commission appears to be flying in the face of decisions being made in other states. In 1974 the Florida legislature passed a sunshine law, and in California, initial proposals must be made public; in Minnesota there is open bargaining. The expenditure of public funds is of great concern to a large percentage of the people. They want to know what is happening to their money.

In a survey conducted by the Florida School Boards Association and shared with me by Executive Director Dr. Donald Magruder, 68% of the Board Members favor the retention of sunshine bargaining. Fifty-three percent of the Superintendents--who it was assumed would oppose open bargaining--voted for it. The professional negotiators still prefer closed session; even so, it was only a slight majority that favored closed sessions. According to Dr. Magruder's report, teachers in both the NEA and the Federation took positions against open session.

Of course, there are advantages to negotiating behind closed doors. It is said that negotiations can be frank and honest and deal with the issues straight on. However, in negotiations, the parties are adversaries bargaining about the commitment of the public's money, and privacy is not appropriate for this activity. The public's business should be conducted in public.

There is one overriding problem with our open negotiations--nobody comes. Unfortunately, the same thing which has happened in Florida has happened in my community; once the novelty wore off, nobody came. The only time large numbers have attended was in crisis situations when the press was getting mileage out of the situation. Nevertheless, I believe that there would be adverse reaction to a decision to negotiate behind closed doors, because even though the public does not always attend, they know they can.

The public in general does not understand the bargaining process. When the parties disagree, the public is disturbed. They have to understand that it is part of the process. The Center for the Study of Collective Bargaining in Education could do a great service for both union and management by helping the public understand the collective bargaining process. The community should know what to expect from negotiations, and what not to expect. Negotiations are for improving the educational process for students and the community should not be led to expect it. The community should not expect harmony; they should hope that the process resolves conflict. And the community should understand that when there is disagreement, when there is impasse and the legal remedies must be sought, it does not mean that the system is not working; it means that it is working! It is all part of the process, and we prefer to see that process working in public.

Open sessions are not for everybody, and certainly there are disadvantages. But the bottom line is the public's right to know, and while we are not always successful in resolving our differences, at least the public knows that, and if they do not like it, they let us know at election time.

Henry Allen

The context of my remarks is rooted in a very deep belief in public education and a need to find ways to save public education, because I believe it is under attack now to a greater extent than it has been in previous generations. As a teacher unionist, I also have a very deep belief in the collective bargaining process and in the rights of educators to bargain collectively.

Speaking first on the question of public education, it seems that if we look at the last five Gallup polls on public support for public education, it is clear that every year over the last five years increasingly less confidence in the public schools has been shown by the general public. The perception is that the public schools are failing; that they are not doing the job they should be doing. Secondly, if one looks at the responses to this perception, one recognizes that the fiscal crisis of the state is going to be expressed by cutting back on human services, one of those services being the education to our children. Examples of this are Taxcaps, Proposition 13, and the impending Proposition 2½ in Massachusetts. Another example is the voucher plan, which I gather will most likely be on the ballot in California, and which we may be facing here. Poor student achievement, student unrest, student drop-out rates--all of these are indications of the malaise and the difficulties that we find within public education today. I suppose the first question we should therefore ask is, should there be an alternative to the bilateral model for collective bargaining?

I agree with Richard deLone's remarks that the public schools reflect precisely what society at large wants them to be. So it is not adequate, I think, or fair, to blame collective bargaining for the failures of the public schools--or to attack the unions or the school committees, or the bilateral process in particular. But I think it is fair to say--at least from my experience in Boston--that the collective bargaining process has not been representative of the constituency that is most immediately concerned and affected by the public schools--that is, of the children in those schools and their parents. In Boston as in other cities a very small percentage of the people who live in the city have their children in public schools. In Boston, probably less than a quarter of the total population actually has school-age children attending public schools. That means that school committees are far more representative of a broader constituency: the taxpayers, those who elect them. Parents are a minority in that constituency. There is also an imbalance in the racial composition of the school committee. Only two years ago Boston had its first Black school committee elected in the 20th century. We have a growing Hispanic population, and whether it might be 10, 15 or 20 years before they are represented directly on the school committee, no one knows. The point is, the school committee has not been representative of the intrests of certain elements within the larger community, especially the parents of minority children.

In view of desegregation in 1974 and the Federal Court orders which desegregated public schools, that has led us to question the whole range of decisions that are made by the school committee and the school administration. As I mentioned this morning, the Boston City-Wide Parents Advisory Council (CPAC) tried to raise a lot of hell; we have money and resources, organizers, and we do exactly what any other organized constituency would try to do: let their voices be heard and try to impact on decisions that are made which affect our kids. But what we have increasingly found is that both the union and the school committee consistently fall back on the argument that they are in a bargaining position, that what we ask for is something which is decided at the bargaining table. If we raise the issue of affirmative action, or of staff accountability, of staff evaluation, of class size or whatever else we feel impacts on the quality of education for our children, we are told, "That's at the bargaining table." Sometimes the school committee will say that, sometimes the teachers' union will say that, and we are caught between them and bounced back and forth.

We are really novices at this. We do not come with a hard and fast position that says that we want a place at the bargaining table, or that we think there should be third-party collective bargaining. What we are saying at this point is that as an organized constituency representing children in the schools, we have been told and led to believe that there are decisions that affect our kids that are made in a place where we cannot have any direct impact. We want to find a way to break that bilateral model, not in a manner that threatens the prerogatives of the school committee as an elected body, or breaks or damages the prerogatives which teacher unionists have fought and struggled for over many years.

In Boston the first AFT local was chartered in 1919 and did not win collective bargaining rights until 1965. Indeed, for its members the union has achieved a certain degree of equity and social justice. I don't think most parents in Boston are opposed to that process. I think what we are saying is, we've seen that the process can work for educational workers in school systems, and some kind of organized force is necessary for parents as well.

Given past history, electoral democracy--at least as it is practiced in this day and age and in Boston--is not going to be the route that we can take. We do not have the kind of faith that leads us to believe that if we only elect the right people we will be represented by them. The people need to be organized at the grass roots level and to exercise their power directly at the bargaining table. It might be by following the Rochester model, where we are invited by the school committee. In Massachusetts the law does not exclude parents; either the union or the school committee could invite us to be part of the negotiation team. I think we would welcome such an invitation. From my personal persepctive, I would welcome an invitation from the union to be part of their negotiating team rather than being invited by the school board and school committee to be part of the negotiating team, because I think by and large the future of public education really depends upon parents and teachers working together to reform education and to radically restructure the purpose and functions of public education. I believe that our interests are much more deeply entwined with the people who directly relate to our kids every day. We know that what our children get in terms of education depends upon those teachers to whom they relate every day. That is where our interest lies: in working with teachers to the degree that that is possible and that they will let us do so, or to the degree in which we force that to happen.

In Boston, teachers and parents have been able to work together on several issues. One issue is class size. We formed a joint Boston Teachers' Union-Citywide Parents Advisory Council committee. This was a very critical issue, because the union contract had a class size limit of 26 to 1 which we felt was tolerable and the school committee was attempting to increase that size in response to scarce resources. We were able to work together with the union on this issue and succeeded in pretty much holding the line. We have also been working very closely with the union on the issue of school closings. There has been a threat to close up to as many as one-third of the public schools in Boston, and parents and teachers see their mutual interests served by working cooperatively.

I think by and large the relationship between the union, parents and children has been a beneficial one. But it has left a lot of gaps. As was mentioned this morning, when the class size issue was presented at the bargaining table, CPAC were not there to see exactly what was going on. We had to rely on what the respective parties were saying, and when the contract came out, it did not reflect what we thought we had been working towards with the union all those months.

To sum up, we believe we need access to the bargaining table; we need a direct grass roots involvement in the bargaining process. It may make things more complicated, but I do not think the argument of complication should be used to deny people their rights. Do not forget, in the nineteenth century and in the early twentieth century--and even today--a lot of management people said to workers, "Why do you want to make this so complicated? Why do you not just let us make this decision and we will make it in your best interest?" Workers have rejected that reasoning, and so do parents.

Charlotte Ryan

Perhaps I should begin with a disclaimer. I have been a member of two school boards; I have not taught in a public shcool, and of the varied negotiations in which I have participated, none has been in collective bargaining. Nevertheless, I have been deeply concerned with the interactions between school organizations, and I have observed several situations. What I have seen is that however large or small a district, and whatever the issues, the character of negotiations between school boards and teachers' organizations carries a strongly reciprocal influence on relationships within the school community, and thus on the learning climate itself--much as relationships between parents influence the growth and development of children.

Teachers and school boards are inseparable partners in the public schools, just as all those concerned with the education of children form a community. All the management effectiveness tools or other paraphernalia that may be mustered to the task cannot obscure the central influence of mutual respect on the success and welfare of a school system, or, conversely, the baneful influence of any conflict for dominance.

In many schools bargaining is built on trust and shared thinking. Where this occurs, it is reflected in uneventful bargaining and in a cooperative school climate. On the other hand, long negotiations, adversary and competitive, are likely to grow out of dislikes and distrusts, and result in rigid and complicated contracts. As in any family, a continuing adversary relationship carries over into daily operations. The climate of distrust increases the isolation of teachers, leads to ineffective management, loss of leadership, and minimal effort on the part of both teachers and students--not so much out of disinterest as out of the chilling effect of distrust--and thus to minimal performance.

It is not collective bargaining itself which is at fault even in the most difficult situations; negotiation is appropriate in a democratic society. Conflict and self-seeking interests will arise, however, which can override the needs of students. I suggest the remedy for this lies in seeking to reverse these characteristics toward a more collaborative model and in a general insistence on the priority of students' interests.

The growth of collective bargaining in educational governance is recent enough that there is plenty of room to reshape the industrial model. Continuing distrust and tension between so many school employers and employees suggest that the industrial model represents a hierarchic structure which itself warrants examination. For instance, the fact that laws altering the industrial model to prohibit stirkes have not prevented strikes suggests that use of the model leads to such outcomes, and the prohibition of strikes is regarded simply as an inequality and another source of frustration.

There is also the anomalous position in which bilateral collective bargaining tends to place the community. The position of a school board in relation to its public differs from that of the industrial board of directors to its shareholders. The school board's public is closely involved in the schools: Students (who are seldom seen as part of that public), parents, of course, and often others of the community whose views may affect the level and quality of education in various ways. In other words, the public's concern with schools goes much farther than a concern for a balanced budget; it involves issues of educational policy often brought into collective bargaining in which a school board can hardly be fully representative.

In any situation, issues are rare in which there are only two sides. In education, two-sided issues are almost non-existent. Yet bilateral bargaining commonly reduces a multiplicity of issues into two positions even before negotiations start. Moreover, where adversarial tensions exist, both school boards and bargaining units tend to pack as many issues as possible into negotiation.

Many agreements are so rigid that they reduce, appareciably, the opportunities for teacher-initiated planning or collaborative policy-making. Negotiations securing the participation of teachers in curriculum development, for instance, may write in enough restrictions of certification and length of service to eliminate people with genuinely valuable ideas. The November issue of Educational Leadership carries an article which graphically describes the difficulties which adversarial negotiations raise for the problem-solving activities of teachers and supervisors.

In many schools, collective bargaining agreements have eliminated time for other than formally scheduled parent conferences, or attendance at more than one or two PTA or PTO meetings a year. Home visits are a novelty, so that many working families never meet their children's teachers. Parents who request changes in school procedures, such as school lunch periods, extra-curricular activities and the like, are surprised to find how many of those procedures are rigidly fixed in negotiations. In this sort of situation, almost any teacher or administrator may reject any suggestion of community involvement as just too complicated and troublesome. All of this is extremely frustrating to those of us who seek to develop community support for the public schools.

On the other hand, school systems which have established trustful climates tend to deal with few issues other than salaries, and therefore complete negotiations in relatively brief periods. In a collaborative climate, more issues and decision-making are willingly left to informal "talking out."

A remedy which suggests itself is the development of collaborative relationships in school operations. I have seen this take place over time--not overnight, because it involves many small changes in the hierarchic system, in daily encounters, in administrative practices, in relationships among teachers, in teacher-parent and teacher-student relationships. Gradually the more rigid, established relationships are relaxed to allow the sharing of concerns and efforts.

A collaborative climate also brings a fundamental change in the "closed doors" policy of most school-community relationships, as well as in bilateral collective bargaining in which meetings can be legally closed. Obviously, the more adversarial the proceeding, the more one or both parties want meetings to be closed. Nevertheless, collective bargaining which excludes public representation often excludes students' interests also. Issues which affect those interests, such as class size, curriculum development or RIF procedures, frequently involve contests designed to discredit an adversary and gain organizational prerogatives.

I suggest it is more effective to change the environment than to try to change the procedure. I would not support a third-party procedure because it might tend to introduce distracting interests, which could also be self-seeking and adversarial and could divert responsibility from those who are responsible for educating our children. I would not support attack on negotiating parties, nor would I make the rules more strict than they are. I would, instead, suggest enhancing the public view of the proceedings; suggest trying to establish students' interests as the prime criterion in evaluating all proposals with fair treatment for negotiating parties as the second criterion

This, of course, means open negotiation. Many in this audience may not recall that school board meetings used to be secret. I recall our first open meetings as something that was like stepping into cold water--but I also recall that afterwards the level of our discussions improved markedly.

The suggestions I would make are devoted to creating an open environment rather than imposing restrictions. They are as follows:

1. Open negotiation.
2. Publication of initial proposals, subsequent modifications, and agreements. Both of these suggestions might discourage protracted bargaining and the introduction of unnecessary issues
3. Open and neutral data--fully shared information on the issues under discussion; use of the best available sources, made continuously and easily available to the public. "Surprises" would thus be obviated and discussions could be centered on learning objectives and issues of equity. This provision is of major importance and may need legal sanctions.
4. Open invitation for a neutral, independent task force to follow the negotiations, report progress, and enable the interested public to discuss and evaluate issues. Interested organizations could offer opportunities for such discussions and could include other school-related groups such as classified employees.
5. Year-round efforts to develop open communication and collaborative practices.

Questions and Answers

DISCUSSION HIGHLIGHTS

A most heated debate took place in this workshop on what role, if any, parents should play in the collective bargaining process. The major issues discussed after the panel presentations were: what role did Gayle Dixon play as a parent representative at Rochester's negotiations; why does the law not provide for multiparty bargaining; what is the best way for parents to have a voice in school decision-making; and what role do parents play in New York City's negotiations?--Editor.

QUESTION: Ms. Dixon, how were you received by both parties in the negotiating sessions? Do you feel that you were utilized and was your help sought, or were you just there as an observer?

ANSWER (Dixon): Even though the Board of Education adopted a parent involvement policy and said there would be a parent representative on the district negotiating team, many of those people on that team were not too happy to see an outsider present. The first time I was presented at negotiations, the negotiator of the district announced, "She is here, folks. We have just got to make the best of it." After a period of time, I built up some credibility with management's team. The teachers' union was fairly silent about my involvement on the team. There has always been a good working relationship between teachers and prents in that district. The parents are not particularly anti-union; in fact, if anything, they are more distrustful of the administration and the Board of Education.

ANSWER (Kaufman): I think the unique thing about our process was that the parent was a full member of the team, having complete access to all the information that we had, and she also met with the Board of Education in closed sessions when negotiations were scheduled. I think Gayle Dixon's power was the power of being potentially subversive. As I suggested before, I think parent groups will never be satisfied until they buy into the process on one side or the other, because even if they are not excluded, they will convince themselves they have been. In our district that did not happen. Gayle Dixon not only had credibility with us, she also had credibility with the community.

QUESTION: Ms. Dixon, you indicated that you served one year, and now someone else will serve. Is there a limit of one year on the team?

ANSWER (Dixon): No, there is nothing in the parent-involvement policy that says the same parent representative cannot put his or her name on that list a second time around. My personal opinion is that it is not particularly good to have the same person serve twice. You cannot spend hours and hours during an entire year and not become friends, to some extent, with the people on the team, even if you were to disagree with them Although I do not think I would be any less objective if I were the parent representative again, there might be that perception in the community.

QUESTION: Collective bargaining is a political process with different groups competing for power and money. These factors of immediate self-interest override all the altruism and the nice liberal things we like to espouse to the press, no matter which side we are on. As soon as a third party enters the process in any capaccity, is it not then in the interest of one of the parties to try to co-op this third party in order to tip the equation in their own favor?

ANSWER (Ryan): When negotiations take place between the union and the school board, the interests of students are not always adequately represented. That is the reason why parents, and citizens concerned about students, are trying to get involved in the first place. Furthermore, you can never depend on electing a school board member who is going to represent all your interests. You are far better off organizing the community and using public opinion--educated public opinion--to focus attention on student needs.

ANSWER (Dixon): I agree that unions and management would like to co-op the third party. Obviously, part of the reason that the process in Rochester worked was that it served management's advantage, and they wanted it to work. However, parental representation on management's team made the school board more responsive. It also increased their credibility in the community because the school board's chief negotiator spent a great deal of time attending parent group meetings to find out their priorities in bargaining. The parent groups also spent time trying to decide our priorities. At times, we supported the school board; at times, we supported the teachers--depending on the issue. Even though I was on the management team, I did not feel I was management.

QUESTION: Did you really go up against management on a critical issue?

ANSWER (Dixon): Sure. I did it once at a full session of a school board meeting. You have never seen seven people do such an about-face on a position in your entire life! When they said, "What are you going to do when you meet with the parents next week?" I said, "I am going to tell them that you do not support them."

QUESTION: What has been done about unionizing parents? For example. teachers have a union; managers, by definition, behave something like a union. But parents lack the capacity to really negotiate anything. Why is it not legislated into collective bargaining law that a parent organization should be at the bargaining table?

ANSWER (Ryan): Philadelphia parents did form a union, but the role they played became too self-serving. On the other hand, there have been PTA's in California, Chicago and Wisconsin that assumed the kind of role I advocate--that is, they made themselves well-informed, informed the public and brought public pressure to bear on the bargaining process.

ANSWER (Allen): I would say that the difference between parents and workers is that workers can withhold their labor. Parents, I suppose, could boycott schools and disrupt the educational process. In fact, that has been done at various times for specific purposes, as they did in Boston, in an attempt to desegregate the schools. That seems to be a legitimate tactic, as legitimate as workers withholding their labor when it is in their interest to go on strike. But that only happens in a crisis situation. The situation in Boston is a bit unique because parents have mandated Federal Court powers to monitor desegregation. We are not, therefore, a traditional parent-teacher association. We have access to information, a budget that, at least up until now, no one can touch, and a staff who are hired and fired by parents. We are making an effort to become that organized constituency which represents the interests of children. I would strongly disagree with Charlotte Ryan. There may be parents who are self-serving, but in the last fifteen years that I have been involved in parent organizing in Boston, I have seen very few of those people.

I mentioned before that I was somewhat reserved on the whole question of third-party presence and whether parents should have a vote at the bargaining table. But, as I listen to the discussion, I have become more convinced that parents should sit as an equal party at negotiations. Although we have been "advisors" in the past, at the point of decision-making, we are excluded. Parents need to be included in the educational decision-making process.

QUESTION: Ms. Dixon, do you think you could have been more effective if you had been sitting as a third-party representing parents, rather than as a member of management's team?

ANSWER (Dixon): Perhaps, if as a parent representative, I had a right to vote on the contract. However, in the traditional method, only the Board and the union votes on the contract. No matter how many different parties sit at that table, if you do not have the power to vote, then you do not have any power when it comes to a final settlement. My only power lay in pressure on the management's team.

QUESTION: I would like to ask Gayle Dixon and Henry Allen to comment on their two positions. It seems to me that Dixon's role as a member of the management team had sufficient effectiveness to make that Board of Education more responsive to its true constituency, the parents. Is she not saying something very different from what Allen said, because he urges the creation of a firm constituency that speaks for parents. When you create that third constituency, are not the two of you really going in very different directions?

ANSWER (Dixon): I really do not think so. I think that if the community perceived the Board of Education as adequately representing their interests and the interests of children, there would not be any push to have a parent representative at the negotiating table. However, in Rochester, that is not the perception of the community. I had much more credibility with the parent groups in the community than any member of the Board of Education had. It was only because of my presence at the table that they felt the Board was somewhat responsive to their needs in this particular round of bargaining.

ANSWER (Jacques): You call it a "management team." If I sat on a team with someone who tried to blackmail me every time I disagreed with them, I would say that was not much of a team.

ANSWER (Kaufman): I have always had a problem with people who attempt to fix a system that is not working by creating a whole new system. And that is the way I see the movement for tri-partite bargaining. In Rochester, we simply modified the private sector model to make it work better. Parents are consumers of the educational process and therefore are represented by the Board of Education. One should not create an entirely new system. The collective bargaining process is really not that inefficient; it may need some fine tuning, which is what we did in Rochester. We made the Board more responsive and made the community more aware of the process.

ANSWER (Pisapia): I had an opportunity to talk to many parents across the country, and I do not think they really want the right to say yes or no at the bargaining table. I think they want participation; they want information; they want to see what is going on and then they want to direct their influence towards whichever side they need to. I do not see parents advocating multi-party bargaining.

COMMENT (from floor): It seems to me that we can reduce this to a simple postulate, that everybody wants to be informed. Negotiators want to reach as many people as possible with the decisions they make, but that just cannot be done in fishbowl bargaining. Introducing a third party to the bargaining table will destroy the very things that we are trying to achieve. It will destroy the process itself. If there is such widespread concern for parent representation at the table in a democratic society, a simple solution is for a parent representative to run as a candidate for the school board, get elected, and have both voice and vote. That is exactly what happens in every other constituency. That seems to be the most democratic and direct way to get involved in negotiations. If we opt for all these other alternatives, we leave ourselves open to a perennial parade of people with all kinds of digressive interests wanting to sit at that table.

ANSWER (Scribner): The collecting bargaining process may be working in the interest of teachers by improving their economic situation. It may work for certain school boards and certain school committees in terms of legitimatizing the educational system and making employer/employee relations better. But it is not working for the children in the schools or for improving quality education. Not many public employee and teachers' unions have been in the vanguard of court-ordered desegregation, affirmative action, or curriculum improvement. I think they can be in the vanguard, and to the extent that they are, then they will begin to use the collective bargaining process in a way that addresses equity and quality. It is perfectly legitimate that teacher unions should be addressing the interests and concerns of their members. However, parents, children and students have interests as well that are not being met through collective bargaining. Maybe those interests can be represented directly at the bargaining table in some way.

QUESTION: In New York City, the community school boards participate in negotiations in much the same way as Gayle Dixon did. However, this arrangement did not work as well in New York as it it in Rochester. Gayle Dixon could keep her credibility with most parent organizations. In New York City, we were not able to do that because only three community school board members representing 32 districts are at the table. They are sworn to secrecy, which cuts them off from the people they are representing. The view I have from that experience is that negotiations are a kind of "black box." If the parents and public can know the costs of the proposals from both sides, then we can know what goes into that "box" and have a chance to influence decisions before an unchangeable agreement is negotiated. I think there has to be a period to analyze the memorandum of agreement before the Board of Education agrees to a contract.

QUESTION: Each candidate of the community boards of education in New York City are commonly supported by different groups. Which supporting groups get the largest percentage of their people onto community boards?

ANSWER: The union, actually, is the most successful. I was a parent representative in my district. Although we were a union-dominated board, they allowed me to be the representative. After I went through the process, I realized that they were a great deal smarter than I was. They knew that I was going to spend the better part of two years spinning around on something which, in fact, was not going to turn out to be very productive.

Collective Bargaining in Higher Education

James Begin

IMPACT OF FACULTY BARGAINING ON THE QUALITY OF EDUCATION

The purpose of my paper today is to try to relate the impact of faculty bargaining to the quality of the educational process. Unfortunately, this is not an easy task since I have been unable to find any empirical research on the subject. So I will have to approach the topic indirectly by making an assumption. The topic on which I will focus is the impact of faculty bargaining on relationships with academic institutions. The assumption is that there is some connection between the state of relationships among organizational members and the quality of education.

There has been some research testing the expectation that faculty bargaining would create adversary relationships between the faculty and the administration. But before exploring the findings of the literature with you, let me, true to my academic orientation, note a caveat. Much of the data available for analysis of relationships consists of intereviews with parties directly involved in negotiations whose feelings are likely biased in an adversary direction due to their direct participation in the process. Administrators particularly perceive themselves in a more polarized relationship with their faculty. However, conclusions in respect to generalized faculty-administration relations are difficult to draw from these types of data.

A review of the research literature produces a finding that the collective bargaining process has less independent effect on relationships than expected. Rather, bargaining is a reactive process which reflects and reinforces basic institutional relationships. In some instances, bargaining has led to improved faculty-administration relationships by providing a channel through which faculty have vented and resolved tension. Most faculty bargaining relationships are at an early stage of development, but, in many instances, as the parties have adapted to the new process, adversary relationships have tended to be focused on formal negotiations, not personal relationships of the negotiators or generalized faculty-administraiton relationships. I will review some of the specific studies which produce these perspectives.

Ed Kelley in his remarks mentioned the Falcones' (1975) study, but he looked at that study from the perspective of the impact of collective bargaining on governance. I am looking at it in terms of its impact on relationships. It is really the only study I was able to find in which the results found a negative impact on relationships. He surveyed smaller institutions, 407 faculty of six New York two-year colleges, in which about two-thirds of the respondents felt that faculty/administration relationships had become more adversary. Hedgepeth (1974), reporting on a study of the State University College at Cortland, New York, found that the majority of the 29 faculty/administrators interviewed, "felt that though there might have been a basis for adversary relations in preexisting conditions, collective bargaining has extended and intensified those conditions." This also seems to go against my own findings, but it should be noted that bargaining did not cause the adversary conditions. Most of the other studies that I was able to find, including my own, did not produce a conclusion that bargaining has to date important independent effects on relationships.

Mortimer and Gershenfeld (1976), for example, did a study of all the higher education institutions in Pennsylvania. They found a variety of faculty/administration relationships and concluded that adversary relationships were as much a product of prebargaining relationships as they were of the collective bargaining process. They felt that the militancy exhibited by union leaders during the early stages of negotiations diminished, and adversarial relationships were then primarily restricted to formal collective bargaining activities and not personal relationships or general faculty-administration relationships. Adler's (1977) survey of the institutions participating in a 1970 AAUP survey of faculty participation in governance produced a conclusion that there was little evidence that faculty/administration conflict was caused by bargaining.

My own research in 26 unionized institutions in New Jersey, like the Mortimer-Gershenfeld study, produced a mixed range of findings in terms of relationships. But, generally, even where the relations between negotiators were quite often adversary, including institutions such as Rutgers and the New Jersey Institute of Technology, the overall faculty/administration relations were little strained by bargaining. In other places like Rider College and the College of Medicine and Dentistry where prebargaining relationships were very strained, relations have been improved. Bargaining seems to have siphoned off tension as faculty needs for participation have been met through the collective bargaining process. At the College of Medicine and Dentistry, for example, the AAUP negotiated a provision in the contract that if there were not governance procedures established within a certain period of time, the University would be required to negotiate faculty evaluations, promotion and tenure decisions. Needless to say, the college had in place within a year a whole new system of collegiality and governance that had not existed before. It was an interesting use of bargaining to meet the needs of faculty for more collegial participation.

In the New Jersey state colleges, union competition, difficult negotiations, individual leadership styles as well as enrollment problems (and those things are obviously all related) have created a continuous adversary situation. At Rutgers, the relationship between faculty and administration has become increasingly strained over the years; this tension is derived primarily from efforts by the administration, spurred on by state authorities, to improve the efficiency of operations and services by centralizing authority in areas previously dealt with by the individual colleges. Whether one agrees or disagrees with the need to accomplish these efficiency objectives, faculty authority has been diminished by the attempts of the state to increase efficiency. The point is that bargaining did not create the pressures, although it did react to them.

There are many other studies, and time is running short, so let me try to summarize those studies with a few sentences. Mortimer and Richardson (1977) found in a study of Pennsylvania and Massachusetts colleges that often it was authoritarian administrative styles carried over into negotiations that created continuing adversary faculty/administration relationships. In fact, while the presidents of four of the six institutions under study resigned in part because of collective bargaining tensions, the authors concluded that the inability of the presidents to adapt authoritarian styles to bargaining was partly the problem. Some of the other findings which I thought fascinating were that they felt that adversary prebargaining relationships (long-term debates over the nature of the unit) often carried over into bargaining. In one college, the authors concluded that "while collective bargaining cannot be given all or most of the credit for the harmonious relationships which now exist within the college community, it has played an important role in the process." I will not talk in detail about the Southeastern Massachusetts experience. Ed Kelley touched on that. Obviously, that is another institution where at least in 1976, which is my last reference, the parties felt that they had reached some accommodations in the collective bargaining situation which did not necessarily lead to adversary relations between faculty and administration.

Tony Ross mentioned that the union had many problems in Massachusetts over the bargaining unit. That is not an unimportant debate. As I read through the studies to try to separate out variables which have an impact on the relationships, one of the areas which has potential to create adversarial relationships is the composition of the unit. In New York State, you find tension stemming from the massive statewide unit. In fact, the best indication of the problem they have there was the attempt of the four university campuses at Albany, Buffalo, Binghamton, and Stony Brook to break away from the statewide unit and form their own units. When you have large statewide units which have heterogeneous occupations within them (they have many non-teaching professionals in the SUNY unit), and a lot of different kinds of institutions with different educational objectives, you increase the potential for problems; unions are going to have to meet the needs of all their diverse constituents. I think that is one factor that can create adversarial relationships and tension. In the City University of New York where they combine 2-year and 4-year institutions, some of the faculty from the senior institutions became angry when in the first contract salary parity for 2-year colleges and for the senior colleges was negotiated.

At Rutgers there have been problems as well. I think we have one of the few units where the graduate student employees, teaching and research assistants, are included in the same unit with the faculty. That combination has caused not only very difficult problems in negotiations, but has an impact in some instances on generalized faculty-administration relationships. The state has not viewed graduate assistants as employees; therefore, almost every time AAUP negotiators have asked for increased benefits for TA's and RA's, the state has created roadblocks to settlement. Therefore, negotiations often get drawn out for months, sometimes as long as a year or a year and a half, partly because of that issue. The state refuses to go along with what the union, the AAUP, and the administration would like to give to those employees. So the bargaining unit does have a potential impact on relationships.

One thing looked for as I went through the studies is the question of whether it makes a difference if AAUP, NEA or AFT represents a faculty in terms of the impact on faculty-administration relations. If you look at strike data, which is one indicator, you might be surprised. Ten of the first fifteen strikes were in AAUP units. In fact the recent strikes in Cincinnati, Rhode Island, the University of Bridgeport, Boston University, were all AAUP units. You could conclude that the AAUP is the union that is having the greatest negative impact on relationships. However, the AAUP represents many of the private sector institutions, and before you draw any conclusions, recall that they have a right to strike in the private sector. But I think it reinforces my feeling that it is local conditions, including the legal environment in which the parties are negotiating, not the type of bargaining agent, which are the major determinants of strikes we have had in higher education. This point was made in my study of the Rider College strike and the New Jersey State College strike in which it was concluded that "the faculty still perceive the strike as an extreme and last effort to sensitize the administration to the faculty's position concerning participation in the decision-making process and the content of those decisions. At this point in time, faculty frustration not only has to have specific referents, i.e., concrete issues and/or persons, but the level of frustration has to be greatly heightened for strike activity to occur."

In sum, the literature on the impact of faculty bargaining thus far does not support the expectation that relationships are always adversarial under collective bargaining. Instead, several patterns of relationships have developed depending on the nature of the underlying organizational and environmental factors.

Bibliography

Adler, Daniel L. *Governance and Collective Bargaining in Four-Year Institutions 1970-1977*. ACBIS Monograph No. 3. Washington, D.C.: Academic Collective Bargaining Information Service, 1977.

Begin, James P.; Settle, Theodore C.; and Alexander, Paula. *Academics on Strike*. New Brunswick, N.J.: Institute of Management and Labor Relations, Rutgers University, 1975.

Falcone, Michael A. *Collective Bargaining: Its Effects on Campus Governance*. Special Report No. 16. Washington, D.C.: Academic Collective Bargaining Information Service, February, 1975.

Gershenfeld, Walter J., and Mortimer, Kenneth P. *Faculty Collective Bargaining Activity in Pennsylvania, The First Five Years (1970-1975)*. Center for Labor and Manpower Studies, Temple University and Center for the Study of Higher Education, Pennsylvania State University, 1976.

Hedgepeth, Royster C. "Consequences of Collective Bargaining in Higher Education." *Journal of Higher Education*. Vol. XLV, No. 9 (December, 1974), pp. 691-705.

Mortimer, Kenneth P., and Richardson, Richard D., Jr. *Governance in Institutions with Faculty Unions: Six Case Studies*. University Park, PA: Center for the Study of Higher Education, 1977.

Walker, Donald E.; Feldman, David; and Stone, Greg. "Collegiality and Collective Bargaining: An Alternative Perspective." *Educational Record*. Vol. 57, No. 2 (Spring 1976), pp. 119-124.

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Bias, we all have it. Our first speaker noted that some issues did not take quite as long to bargain as others, and that those tough issues such as academic freedom are perceived of as meaty issues. Certainly a bias that many of us have in higher education. My assumption is that faculty involvement in the governing of the institution, whatever the structure may be, has some impact on that institution and the delivery of educational services. What impact, positive or negative, I leave for the particular institutions and the parties. I would like to talk about some emerging effects of academic collective bargaining, as I see it with those assumptions.

Kemmer and Baldridge in 1975 noted, "one of the most important factors shaping collective bargaining is the scope of bargaining that is allowed. Restrictive laws, strong faculty governance bodies that jealously protect academic issues, and strong administrator pressure tend to restrict bargaining to wages and economic issues. On many campuses these forces are weak or absent. Combined with the natural tendency of unions to expand the scope of bargaining, campus realities may help to increase union power and concerns. In the process, the power of traditional governance bodies such as senate, department and faculty committees is eroded." Although some militant faculties have begun what some have termed an assault on traditional governance structures through academic collective bargaining processes, other faculties have utilized that very same process to bring about changes in institutional governance structures which guarantee faculty a role in governance. Michael Falcone in a 1974 paper reports finding that a significant number of faculty and administrators at six upstate New York community colleges, where litle tradition of self-governance had existed, were of the opinion that collective bargaining had brought about shared governance and had elevated the faculty's right to participate in decision making to an enforceable contract right.

Another study suggested bargaining can be viewed as an alternative problem solving mechanism through which faculty may be able to regain or strengthen their rights under traditional governance processes. The paper by Joseph Orze, former Dean of Arts in Southeastern Massachusetts University (SMU), reveals a negotiated institutional structure which suggests that faculty members at SMU have so much management responsibility that they may no longer qualify as employees under the Massachusetts law. The President of SMU claims that bargaining has helped to "flatten the pyramid of authority" by providing the faculty with extensive and effective participation in institutional decision-making and by redistributing the burden and responsibility for the the decisions made. Bargaining at SMU apparently has brought about a system of governance having the advantages of shared authority and shared responsibility.

At Fairleigh Dickinson University, faculty and administration have bargained a contract that is approximately 160 pages in length, some seventy pages of which are devoted to faculty governance structures--seventy full pages of a contract describing governance structures from the departmental level through the college level into the University-wide level. Many in this field felt that such a contract would be a fertile farm for grievance upon grievance upon grievance. As it turns out there were very few grievances at Fairleigh Dickinson University, at least grievances over issues of academic governance. They find the relationship there most comfortable under that structure and appear to be prepared to bargain another contract of similar length with similar governance structures.

The assaults on traditional governance structures mentioned above have come in the form of attempts to bargain some management rights such as program, number of staff, kind of staff, hiring, firing, job assignments, supervision, and level of funding in the selection of administrative officers. Recent board and court decisions have, however, continued a trend of "preserving management's prerogatives," which began with the 1968 Wisconsin Employment Relations Commission decision which upheld an employer's right to make unilateral changes in duties even though the employer had negotiated the subject. A 1971 New York PERB decision upheld the employer's right to cut the budget despite a requirement to negotiate the impact of said cuts on salaries, work loads, etc., whatever bargaining that may mean. The Director of Region 19 of the National Labor Relations Board in a 1975 dismissal letter in the matter of an alleged section 8 NLRA violation on the part of St. John's Chapter AAUP, held that the following were non-mandatory subjects of bargaining: (1) Introduction of the 1966 statement on academic freedom, etc., into the agreement; (2) Faculty representation on the Board of Trustees; (3) statement of Administrator Responsibilities and Academic qualifications of deans and vice presidents; (4) selection of the president and deans. In January 1976, the New Jersey PERB handed down its decision in the matter of Rutgers University, wherein the commission held that the following subjects were not required subjects of bargaining: (1) Contractual provisions granting the union a role in formulating certain managerial and educational decisions; (2) composition of an administrative committee performing strictly managerial functions; (3) contractual provisions precluding the university from conducting productivity studies without prior negotiation with the union representatives; (4) educational decisions concerning the academic calendar; (5) the number of employees to employ; (6) faculty involvement in search committees for administrative positions; (7) salaries and fringe benefits of unit members employed in summmer session; (8) educational decisions concerning course combinations and class size; (9) quotas or limits on tenure; (10) agency shop and (11) union approval of affirmative action plans. A subsequent New Jersey Supreme Court decision in the matter of Ridgefield Park's School District eliminated the "permissive category" of bargainable subjects entirely, determining that the New Jersey law only allows for mandatorially negotiable subjects. Quote the Court, "All of the subjects not designated as mandatory or non-negotiable [are] within management's prerogative."

Attempts to deal with collective bargaining and shared governance as necessary aspects of employment relations in higher education have led to questions concerning the point at which one process begins to impact upon the other. Issues raised by this include whether the impact of bargaining a particular subject on management's ability to perform its required duties is more or less serious than the need of the employees' union to bargain reasonable conditions of employment, and more importantly, whether the impact on the duties of administration and the employment conditions of faculty affect the mission of the institution--delivery of quality educational services.

Present trends of Board and Court decisions are perhaps best indicators as to the current and future effects of bargaining on institutions of higher education. Let me briefly recite some current issues as I see them and some of the trends in fourteen states that we reviewed in our project.

Issue: does effective dispute settlement require more than administrative review? Trend: resolution by third-party neutrals is tending to replace the final authority of employer as a decision maker, in both unionized and nonunionized structures.

Issue: will personnel policies in the areas of standards of performance and productivity and codes of ethics become negotiable subjects? Trend: generally, it is still held to be management's right. Yet amendments to the Massachusetts law require negotiation of standards of performance and productivity. Recent conferences on the issue of productivity in higher education convince me that many states are looking toward standards of productivity and performance and have looked to Massachusetts as an example. Yet it appears that litle has been put in contracts relative to those standards of performance or productivity.

Issue: are the unions gaining security in the form of agency shop or service fee? Trend: more states appear to be requiring the service fee, mandating it as a subject of bargaining.

Continuing with union security in the broadcast form: what has been the impact of the retrenchment threat as a result of the declining student enrollment and the economy? Retrenchment has become a mandatory subject in four states and negotiating procedural clauses are mandatory in almost every state.

Continuing in the same general area: what is the status of exclusive representation as opposed to traditional governance structures which represent various campus interests or are alleged to? Exclusive representation is well established in the various state laws, but is not fully tested, as in New Jersey relative to the rights of management to confer with the senate or other faculty representatives over those decisions which are not mandatorily bargainable.

Issue: will determination of class size continue to be viewed as a traditional management prerogative? Trend: five states now mandate the bargaining of class size, while four retain the subject as a management prerogative. However, in two of the four states the impact of class size change is a mandatory subject of bargaining whatever that impact may mean.

Issue Five: what is happening relative to employee perquisites such as pension and retirement, traditionally provided for in the public sector by law or rule? Trend: there doesn't appear to be a clear trend, with some states mandating and others prohibiting bargaining on these subjects. The subject is usually prohibited where such benefits are established by civil service laws.

Concerning other perquisites, there is general agreement on the mandatory nature of insurance, leaves of absence, holidays, vacation and parking. Some employees have expressed interest in giving up supplemental benefits to avoid massive position cuts. I note most particularly New Jersey State Colleges and the Pennsylvania State Colleges where the faculty union bargained away extensive travel funds and the like in order to retain positions that were to be retrenched.

Issue: will bargaining for higher salaries produce new dollars? Trend: recent studies lend some support to the idea that unionization does indeed result initially in higher salaries. However, the higher salaries have not produced new dollars in the form of appropriations in the public sector or endowments in the private sector, but have resulted in the reallocation of dollars from such areas as research, travel, part-time faculty, etc.

Issue: will the union's political influence impact on retrenchment? Trend: in two states where the state colleges/and or university systems were faced with massive layoffs, the union's political influence at the bargaining table caused state authorities to divert funds from certain non-salaried areas to save faculty positions. It seems to me that such a situation appears to lead to increased executive and legislative control over university positions without recourse to the Board of Trustees. What does that mean? It carries out I think an intent of some legislatures in passing collective bargaining legislation in the public sector. There are those who would argue that the intent of some legislators in passing such laws was to gain greater control over the university. They perceived that the university was running away with itself, that faculty and students were tearing apart the educational structure of the state. These legislators were convinced that through bargaining, since they continue to hold the purse strings, they would get greater and greater control over the university.

Issue: will the unions' drive for faculty security result in protection of the mediocre and lead to loss of university prestige? Trend: contracts are requiring administrators to give reasons for overriding faculty recommendations. I might suggest that that has as much influence for good as for ill. There are those who would argue that giving reasons tends toward mediocrity. I suggest otherwise, feeling that having to give reasons will force the administration to look carefully at the recommendation of faculty. It may, over the long run, force the administration into a situation where they require sound evidence from the faculty evaluation committee supporting the quality and ability of various faculty, which will certainly lead to greater and greater quality. Researchers Kemmer and Baldridge have noted that, "the major negative consequence of faculty unions may be a protectionist, job security orientation that could thwart personnel policies so that incompetency is protected and seniority, not merit, becomes the main decision-making criterion." I disagree. More third-party neutrals are being used in an attempt to overturn administrative decisions on the basis of technicalities rather than on substance. That is true on some instances, yet in others the issue that is couched in technical terms is indeed a substantive issue. But since substantive issues on academic judgment may not be brought to arbitration, the faculty unions are wise enough in my estimation to couch their grievances in procedural terms in order to get the issue before the arbitrator. Arbitrators have, however, been reluctant to deal with those issues and I think wisely so. As an arbitrator faced with similar issues at the K-12 level, I, at least, have avoided dealing with those kinds of academic decisions. Administrators and faculty will be left to make academic decisions in a manner which must enhance quality education if their respective institutions are to survive the 80's.

An overall trend may be described as a movement toward contractual guarantee of shared governance and continued faculty senate existence as well as increased participation by faculty in institutional decision-making which may result in further union lobbying for governance guarantees or mandatory negotiability under collective bargaining laws. However, such guarantees must come at some expense to the institution, its educational mission, and its constitutencies--faculty, administration, and students. I do not know what costs--we will leave that to the future. I agree with the statement by Leon Epstein in his book, Governing the University (1974), that in a very real and positive way, Collective bargaining may introduce as an alternative a measure of bilateral government distinguishable from unfettered hierarchical authority and from pure professional self-government." The positive aspects of that imposition are left to the parties for resolution.

Anthony Ross

Although I have been involved for four years in collective bargaining in higher education, I am still not sure if I know all that is occurring in that sector. Nevertheless, this presentation will describe some of the experiences the Massachusetts Teachers Association (MTA) has had negotiating in higher education within the Commonwealth of Massachusetts.

First, the collective bargaining law for state employees regarding salary issues or financial matters did not come into being until the 1974 modification of the existing collective bargaining law. It is, therefore, very significant that since 1974, a relatively short period of time, all public higher education in the Commonwealth of Massachusetts has been organized and is presently under contract. All the fifteen community colleges, ten state colleges, and the three Universities--the University of Massachusetts, the University of Lowell, and Southeastern Massachusetts University--are covered by the collective bargaining agreements, which are getting ready for the second round of talks (these contracts will expire June 30, 1980).

The first collective bargaining agreement at the University of Massachusetts was finally negotiated at the end of 1977. We had a tremendous unit question which took almost a year before the Massachusetts Labor Relation Commission, until we could determine who should be or should not be in the unit. Furthermore, it took state mediation efforts before we could finally reach an agreement with the University Board of Trustees. I do, however, expect the next round of negotiations to go more smoothly, because both sides--the union and management--are now more sophisticated in the collective bargaining process. Many of the problems we had resulted from management's taking the position that several of the issues were management rights, and the union taking the position that everything is open to bargaining. Furthermore, negotiations in higher education in Massachusetts were a rather unique experience, because we were involved in "coordinated bagaining."

At the request of the Governor of Massachusetts (at that time, Dukakis) all public sector, higher education units--the community colleges, state colleges, and universities--were to participate in statewide talks for salary issues only. This was something that had never been done before. It was to be sponsored by and worked through the Office of Employee Relations. We entered into discussions with representatives of all faculty at the various institutions, all management representatives of Boards of Trustees, and the Office of Employee Relations. In five days of round-the-clock negotiations, which were split up three days and then a week or so off and then another two days, we ultimately reached an agreement. This, perhaps, will not occur this year, because we have a new Governor, and we have a new group involved in the Office of Employee Relations.

An interesting result of coordinated bargaining was that neither the University of Massachusetts nor the faculty union were willing to talk money until they had resolved other working conditions, and then we were finally pushed into negotiating for salaries. The Commonwealth's Office of Employee Relations was waiting for the university people to "get their act together," and ultimately forced them into discussing some of those issue in which heretofore the parties had been poles apart.

It is also interesting to note that since the community colleges, the University of Lowell, and the state colleges had negotiated prior collective bargaining agreements, their negotiations seemed to go along a great deal more smoothly. Because they had gone through the process once, they were one step ahead of the University in sitting down to negotiate substantive issues and not getting bogged down with discussion of whether or not every issue is managerial right. I do think that experience makes a very big difference when it comes to negotiating a master agreement for a university the size of the University of Massachusetts. The issues before the parties are so enormous that the more experience the parties have, the easier it will be to reach an agreement.

When the Labor Relations Commission of Massachusetts, after almost a year of hearings and deliberations, finally issued their bargaining unit decision, they included almost everybody at the University. As far as the union was concerned, it was a victory. As far as the University was concerned, they were not about to bargain over some of the people that the Commission had placed in the unit. One of the issues in contention was the 90 department chairs that the Labor Relations Commission had placed in the unit. The University refused to bargain over department chairs. The union felt, at the time, that if we continued to push the issue, which meant going to court, it might take years to reach a collective bargaining agreement. We felt that it would have been in the Superior Court, the Appellate Court, and ultimately the Supreme Court. That is how strongly the University felt about not negotiating with the department chairs. The way we resolved the issue was to have a separate election for those individuals allowing them to vote as to whether or not they wanted to continue to be in the unit. They decided, by one vote, to stay out of the unit. Unit questions were not a big concern at the other institutions and therefore were not a stumbling block to those negotiations.

If the parties adhere to the collective bargaining process as written in Chapter 150E, Massachusetts Public Sector Collective Bargaining Law, and if they both are committed to reaching an agreement, I do not foresee any issue that cannot be settled at the bargaining table. In fact, other issues, such as academic freedom and grievance procedures, took a great deal more time to resolve than did wages.

It is important to note that all of the higher education units received the same percentage and across the board dollar increases, but because of the various wage schedules at each institution, different salaries resulted for different individuals. But with coordinated bargaining, the final result was a standard package for all. This will probably not occur again, because we do not seem to have the pressure from the Commonwealth to move to the coordinated bargaining concept. I am not sure whether it was a good idea or not. If it did anything at all, it got the parties to move more quickly to resolve some of the working condition issues so that we could ultimately reach an agreement on salaries. So it did, in effect, force the parties to negotiate a collective bargaining agreement.

Finally, we have had very good success in working out any disagreements that exist when both collective bargaining and a faculty senate exist on campus. In fact, the state colleges have written into the collective bargaining agreement a mechanism to resolve those problems which occur when a disagreement exists between the collective bargaining agents and the faculty senate. At the University, we have not run into too much difficulty at this point, but the problem remains: who speaks for the faculty? Is it the collective bargaining agent--the MSP--or is it the faculty senate? We have tried to separate those issues of wages, hours, and conditions of employment as issues for the union, and curriculum matters for the faculty senate. The collective bargaining agreement with the state colleges is perhaps the model to follow in attempting to resolve conflicts between a faculty senate and the collective bargaining agreement.

Questions and Answers

DISCUSSION HIGHLIGHTS

The questions and answers which followed the presentations of Jim Begin, Tony Ross and Ed Kelley dealt with the following two issues: will teachers' unions in higher education in the public sector take a more aggressive stance in collective bargaining; and will faculties in the future gain so much policy making power that they will be classified as managers, not employees, and therefore excluded from the protection of the National Labor Relations Act?--Editor.

QUESTION: One of the things that both Tony Ross and Jim Begin are saying is that public sector unions have tended to emulate the private sector experience in which unions are basically reactive: management acts and labor reacts. Some researchers hypothesize that: 1) In the private sector we never have more than 20-30% of the labor force organized. 2) It is not uncommon to see 80-85% of the public sector, teaching labor force organized. It is a cohesive, massive political presence. 3) Management is different in the public sectors than in the private sectors; school boards come and go, but the teachers' union tends to outlast them. With that kind of hypothesis, do you see any kind of evidence that in higher education, collective bargaining in the public sector will become more active--that teachers, professors, and unions will become punchers rather than counter-punchers?

ANSWER (Ross): As a representative of the union, I would like to think that we are, in fact, initiators and not reactors. In many cases, management does something and the union reacts. That is typical in both the private and the public sector. In the K-12 area, where the law in Massachusetts is almost 15 years old, we are, in fact, initiators and not reactors. In higher education, the collective bargaining agreements which we have negotiated in the last couple of years do show that we are taking some initiative and covering those areas which heretofore have been basically considered by management to be management prerogatives.

ANSWER (Kelley): I would like to preface my statement by mentioning one thing I have heard several times throughout the conference--the imposition, if you will, of the industrial model upon higher education or the public sector. First of all, it is my opinion that there is no industrial model. It does not exist. The models are models of enterprise. I assure you that meat cutters do not bargain like retail clerks. Miners do not bargain at all like steel workers. Their contracts reflect the uniqueness of their enterprise. We continue to back uniqueness in higher education, yet we have failed to define that uniqueness. The definition of that uniqueness is going to have to come in our employment relations. One of the ways of defining our uniqueness may be for faculty unions to become more active than reactive, unlike their counterparts in other enterprises. In higher education, unlike K-12, it is not true that public management is transient and union leadership is stable. Good union leadership at the outset has to train management in good labor relations. About the time management is trained, union leadership goes, and in comes new leadership; management then has to train the new union leader, and for some reason, in transferring that education, management loses it ans we end up in a cyclical situation. Note that there are enterprises outside of education where the unions are more active rather than reactive--particularly the miners. Similarly, unions in education will probably get more cooperation from boards of trustees, administrators and legislators if they, too, become much more active.

ANSWER (Ross): At the present time, the legislature of Massachusetts is investigating a proposal to reorganize higher education in the Commonwealth.[1] This is an issue where the faculty must act before the legislature does something which will make them react. The unions are already working to come up with their own ideas on reorganization in higher education. Of course, the natural position is that there should not be any reorganization of higher education. Nevertheless, this is an issue that definitely gets the union moving. Retrenchment is another issue that has come to the forefront in recent years, which is going to have a great impact on the unions, on how they work, and how they bargain. So again, in our contract proposals to the Board of Trustees, we are taking an active role in what should be done in that area. In most cases, we do act rather than react, although collective bargaining in higher education is a relatively new thing in Massachusetts.

QUESTION: I was intrigued by Ed Kelley's citing the situation at Southern Massachusetts University, where the allegation is that through collective bargaining, the faculty have obtained so much policy-making power that they have become managers. Part A of my question is: Would you predict a trend in which faculties gain so much power that they would find they could no longer be classified as employees? And B: What will be the implications of the Yeshiva case for collective bargaining and higher education if the Supreme Court rules that faculty, at least at Yeshiva University, are managers?[2]

ANSWER (Kelley): No, I do not see faculties gaining so much power that they can no longer be classified as employees. One of the parties would have to go to appropriate labor boards to say that we are no longer employees. Nobody is going to do that. Unions and management are happy with the relationship. Most likely, nothing will happen, and you will have a continuing relationship where faculty look a great deal like managers in a Yeshiva test, as an example Administration likes it that way, so they leave it alone. If the Supreme Court decides that faculty are, in fact, managers, not employees, their reasoning becomes important. If they paint with the broad brush of the Catholic Bishop decision, then it will hold up bargaining in the private sector until such time as the unions can get an amendment to the NLRA to include them. Catholic Bishops is a case decided by the Supreme Court on a National Labor Relations Act standard that holds faculty at parochial elementary and high schools that have, as part of their primary function religiosity, are not to be covered by the National Labor Relatiosn Act for constitutional reasons. Painting with a broad brush, they just eliminated them all.

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[1] The Legislature voted to reorganize higher education in July 1980--Editor.

[2] On February 20, 1980, the Supreme Court issued its decision finding that Yeshiva University faculty are "managers" as defined by the Act and therefore are not entitled to collective bargaining. Several private universities, relying on the Yeshiva decision, have refused to negotiate with faculty unions. National Labor Relations Board vs. Yeshiva University; Yeshiva University Faculty Association vs. Yeshiva University, Nos. 78-857 and 78-997, February 20, 1980, 103 LRRM 2526--Editor.

There is another possibility. The court could come down on the very narrow facts of Yeshiva and establish what I would call a Yeshiva test. If they establish a narrow test, I would suggest there would be no change in the status quo, because there will be very few institutions that could meet the test. What is the test? Yeshiva brought in one dean who said (and the Court quotes these testimonies), "In the past five years, I have never turned down one recommendation for tenure for my faculty." They bring in another dean who testifies that, at the policy level, the institution has decided to do away with a particular educational program. The faculty went up in arms. They were so mad, they said, "the hell with it"--and Yeshiva reinstated the educational program. Here is an out for the Supreme Court to establish a narrow test.

ANSWER (Doherty): I am not satisfied with the answer any of you gave on the implications of Yeshiva. Let us assume the Supreme Court were to say that all of those people who are situated in bargaining units in the private sector in higher education are indeed managers, and therefore have no protection under the National Labor Relations Act. That does put distinguished professionals around the country in an interesting bind, particularly those who say, "Gee whiz, we do not really want the money; we want a say in decision-making." The court is saying, "You do have a say." The where do they stand? What sort of double-talk do we hear from the professors then, because clearly they wil want the advantages of collective bargaining? Are they willing to surrender that alleged say in decision-making? Are they willing to comply with those sections of the National Labor Relations Act that make them employees? They are.

How to Improve the Collective Bargaining Process

Thomas A. Kochan

IMPROVING COLLECTIVE BARGAINING IN ITS SECOND GENERATION: THE IMPORTANCE OF THE CONTRACT ADMINISTRATION PROCESS

What I would like to do is to make just a few remarks on where I see the public sector bargaining process going. I would like to take the liberty of defining the term "collective bargaining process" very broadly. I am not going to speak as much about the negotiating process as I am about the broader day-to-day collective bargaining relationship, because I think we are at a point in states like Massachusetts, New York, and most of the Mid-west and Northeast, where we are going into a second generation of bargaining. In situations where collective bargaining in the public sector has existed for a number of years, we are entering a second phase in which process may be challednged even more intensively than it was in its formative years.

The Nature of the Transition

We are clearly in a period of more scarce resources than we had when bargaining first came on the scene. But we are also in a period of rising expectations for what the public wants to get out of this process and out of these bargaining relationships That is one of the things that struck me listening to the discussion earlier this afternoon. We traditionally think about collective bargaining as something for the employees and perhaps even for the employer, but we are talking now about the public exerting a much stronger influence and being more assertive in seeing that their interests are represented and in trying to affect what comes out of the labor management relations process. That is one of the significant features of the environment of bargaining in the second generation. In short, the second generation of bargaining is likely to be characterized by a process in which a third set of interests--"the public" makes it claims felt on the labor management relationship and does so in an environment of shrinking resources.

The early stages of bargaining were pretty much taken up with the unions trying to establish their own political base with their members and within the community. They then concentrated on building up their collective bargaining agreements, first by increasing wages and fringe benefits, and later by increasing the scope of issues covered in their contracts and getting strong contract language on issues of concern to their members. By and large, I think, at least in the non-rural settings, unions were quite successful in these endeavors in the early stages of bargaining. They started in a favorable economic environment and to some extent in a favorable political environment as well. Many politicians felt they had to respond to the unions because they were an effectively organized interest group that geared up very quickly to exert political pressure when needed during bargaining or at election time.

By and large, public employee unions geared up and organized to take on this new bargaining responsibility much faster than--and much better than--management. Management in the public sector was very slow to respond to the challenges that collective bargaining presented.

This, then, was the environment in which this first generation of bargaining evolved; unions coming on the scene, getting organized, struggling to develop a strong contract, and with management developing its bargaining role much slower. By and large, public policy in most states in the Midwest and the Northeast was supportive of the growth of collective bargaining. The scope of collective bargaining was relatively broad and most of the statutes broadened incrementally over time as laws were amended, courts interpreted the language in the statutes and unions were able to achieve an expanded scope through negotiations.

Management is now beginning to take the offensive in collective bargaining much more aggressively than it has in the past, is beginning to try to get things out of contracts, and pressing more of its own issues at the bargaining table with more professional know-how and with much more vigor. Management representatives can do so now because they have more politicians and more of the community behind them. Unions are stuggling more to hold on to what they have in their contracts and are taking a more defensive posture than they were in the past. And now we see the public getting organized, at least in some districts. Public interest groups believe that collective bargaining is having an impact on the quality of public education. Therefore, they believe they ought to assert their interests in this process.

What does it mean when we say we want to "improve the collective bargaining process" as we go into this type of environment? How do we go about doing it? What is it that we are really trying to do and what are the roles for the various parties? I am going to focus very heavily in these comments on management, because I believe that the results of this second generation of bargaining will be largely determined by how mangagement adjusts to the presence of the unions.

The Role of Top Management

We have this notion that there is some natural maturation process that takes place overtime in collective bargaining as management learns to live with and adjust to unions. Well, that is the way I was taught collective bargaining a while back and that is the way I began teaching collective bargaining, but I think it is more rhetoric than truth. We are seeing in the private sector a tremendous drive on the part of some private sector employers to avoid unionization, and to get rid of unions where they exist.

I do not want to see that same thing happen in the public sector, because I think such efforts inflict serious social costs on society and on the employees affected. What we need in the public sector is a management that learns how to assert its interest, assert the public's interest, to be open to broader representatives of the community and to be committed to making the collective bargaining work effectively in this context.

Let me point out a couple of things that I think we should be doing along those lines. We tend to put too much emphasis on the formal negotiations process--especially now that so much of the contract language is already in place. We need to give greater attention to the day-to-day administration of these contracts and to figure out how we can make the language of these agreements work more effectively. This requires that the polemics and hostilities that build up during the bargaining process are overcome so that they do not carry over to the day-to-day administration and thereby polarize the relations between the parties.

The role of the school superintendent or chief administrative officers in any reasonable size school district are pivotal in setting the climate for the labor management relationship. The chief school officer or the superintendent is the individual who is responsible for taking the bargaining agreement and working with the unions, working with the teachers themselves, and with the community groups. He or she must make sure that the contract is a living document--that it is a mechanism for dealing with the problems that occur in an employment relationship on a day-to-day basis.

Unless that superintendent is willing to play that role, willing to accept the legitimacy of bargaining, and to accept the fact that his or her power is now shared with the union, and perhaps with the parents, and other interest groups, the whole process is going to break down. There is a strong temptation for school officials to ignore the contract administrations process or, even worse, to turn it over to their lawyers. Later complaints are heard about how the contract provisions or arbitration awards jeopardize the quality of education. Two examples help elaborate this point.

I have seen class-size committees, for example, go one of two ways. Some of the contracts in New York State have class-size provisions--again a carry-over from the early days when unions geared up much faster than school boards. Some of the contracts provide for a class-size committee that meets every year to work out exactly how the language of the contract is going to be administered and adjusted to meet the specific conditions at hand.

As most of you know, it is not always possible to precisely predict how many students will be in each class prior to opening day. Some shifting around in the first few weeks of class is often necessary and some occurs "naturally" as students add and drop subjects in high-school classes or parents request transfers for elementary students. One district that has consistently experienced this problem and that has set up a committee to deal with it typically gets tied up in grievances to the extent that they are just about finishing arbitrating their differences and compensating teachers who have had overloads by the time the school year is over! Most of the committee time is spent posturing for the "inevitable" arbitrations that will follow rather than making good-faith efforts to resolve their problems. In this case, there is no question in my mind but that the quality of education suffers because of the inability of the administration and the teachers' union to resolve their labor relations problems effectively on a day-to-day basis. This particular difficulty, in turn, reflects a more fundamental problem in the district, namely, neither the school board and the administration nor the teachers have developed the type of labor relations maturity and mutual self-respect that is essential to effective contract administration.

In another larger district that is facing even more difficult staffing and allocation problems because of a declining student population and school closings, a similar committee arrangement exists and operates under similar contract language. Here, however, the administration, teacher representatives, and parent representatives work during the summer and into the fall, to resolve class size and workload inequities before, or if necessary, as soon as they arise. This district has yet to take a class-size grievance to arbitration.

Much of the difference between the experiences of these two districts lies in the labor relations climate promoted by and leadership style of the superintendent. Unlike his counterpart in the first example, he has come to grips with the reality that under collective bargaining his power is shared with employees and that the community groups have sufficient political influence to acquire a "seat" at the table when problems that they perceive to affect their children are being worked out. While the process of finding a solution is often difficult and involves some negotiations and compromise as well as creative problem solving, the commitment to making it work exists because the parties recognize the costs to their educational mission of failure.

Summary

I believe the central lesson from these contrasting experiences is that the art of managing conflict should be a part of the selection criteria that a school district uses when choosing a new superintendent or evaluating the performance of current administrators. Unfortunately, the study of conflict and ways of managing it have not been a part of the training of most superintendents. Instead many of them still feel their authority threatened and their egos damaged by unions and parents or other community groups that want to be involved in decisions about school affairs. If my thesis is accurate, namely that the quality of education produced under collective bargaining in its second generation is heavily dependent on the quality of the day-to-day administration of the labor contract, school boards, parents, and other interested parties might do well to look beyond the formal negotiations process to ensure that this dimension of the bargaining relationship is working effectively.

Ellen Kehoe

THE SCOPE OF BARGAINING FOR PUBLIC EMPLOYEES IN NEW YORK: THE PRESENT STATE AND RECOMMENDATIONS FOR CHANGE

Introduction

In this paper I will examine present problems with the definition of an appropriate scope of bargaining using New York State as a point of reference. In addition, I will recommend possible avenues for constructive changes. While collective bargaining practices vary from state to state, many state employee relations boards or commissions, courts, and legislatures may face similar problems in determining whether or not a subject is a suitable subject for collective negotiations. In a majority of states the scope of bargaining is defined simply as "wages, hours, and other conditions of employment."[1] Further clarification as to an appropriate scope of bargaining may help to cut down on legal costs associated with collective bargaining in education.

While Wollett has written that "the vast literature concerning the scope of bargaining is much ado about nothing and that the preoccupation with this subject is mischievous as well as mistaken,"[2] other noted researchers have indicated that scope of bargaining is indeed an important issue. June Weisberger defends the importance of careful examination of the issue as follows:

> At the very least, legal scope doctrines may be used tactically by one or both parties during the bargaining process to manipulate timing and secure delays. The large volume of public sector scope litigation is one clear-cut indication that legal scope determinations must indeed play some role in the bargaining process. At times, legal doctrines relating to scope may be used as a sword by a weak union or weak management to provide additional bargaining leverage or as a shield to provide some protection against granting undesired bargaining concessions. Moreover, in the "real" bargaining world, parties usually seek to arrange workable tradeoffs. These may be easier to arrange when there is a broad scope of bargaining which gives the parties greater flexibility. For a variety of reasons, therefore, it appears reasonable to assume that the "legalities" do play some role in most bargaining relationships although it is not clear what specific effects the legal rules on scope may have on the actual bargaining process.[3]

A bargaining demand may be classified into one of three categories: mandatory, permissive, and illegal or prohibited. If a demand falls into the first category the two parties must negotiate unless the subject has been covered in a previous contractual agreement or if the employees' union waives the right to bargain over the issue. While the mandatory issue must be determined bilaterally (i.e., both sides must consent to the overall negotiated agreement), either side can insist on a certain demand to the point of impasse. In New York

State, section 200 of the Taylor Act governs the forms to resolve such disputes. The first impasse procedure would be mediation; where the Public Employee Relations Board would appoint mediator(s) to "assist the parties to effect a voluntary resolution of the dispute." If the parties are still at an impasse the board shall appoint a fact-finding panel with "the power to make public recommendation for the resolution of the dispute." Presumably, this impasse procedure would create public pressure for a settlement. The next step for parties who have not been able to reach agreement depends on the part of the public sector involved. In New York, school districts would continue open-ended negotiations, police and fire negotiation disputes would proceed to binding arbitration, and other public sector bargaining disputes would be settled at a legislative hearing upon the recommendation of the Chief Executive Officer. The type of impasse procedure used may have an important impact on settlement. For example, if one of the parties feels that they may have more leverage at a legislative hearing than through mediation, they may act to create an impasse up to this point. Therefore, we might find that unions that have been carrying out strong lobbying campaigns may try to hold out till the legislative hearing for a better settlement. Consequently, the mandatory status of a demand may have an impact on the outcomes of negotiations in this manner.

If a subject is deemed to be "permissive" one side may refuse to bargain over it. The employer may take unilateral action even if has been covered by a contract (though the employer may be guilty of a contractual violation) or if it has been negotiated in the past (this, however, seems to be rather complicated issue, as will be discussed later). One may not insist upon a "permissive" demand to the point of impasse.

When a demand is classified as an illegal subject of negotiation there is not only no duty to bargain over an illegal subject, but if an agreement is reached over an illegal subject the contract is not enforceable. One fairly clear-cut case involving an illegal subject of negotiation is that of Board of Education, Great Neck U.F.S.D. v. Great Neck Teachers Association. The Court of Appeals determined that "a board of education cannot bargain away its right to inspect teacher personnel files and that a provision in a collective bargaining agreement which might reflect such a bargain is unenforceable as against public policy."[4] In general, it seems that in New York State the courts have more of a tendency to declare a subject illegal, while the Public Employee Relations Board (PERB) has generally favored a broader scope of negotiations.

There exists a wide spectrum of viewpoints among scholars and policy-makers concerning the appropriate breadth for the scope of negotiations in both the private and public sectors. In a landmark decision in the private sector, NLRB v. Wooster Division of Borg-Warner, Justice Harlan stated that:

> The bargaining process should be left fluid, free from intervention . . . leading to premature crystallization of labor agreements into any one pattern of contract provisions, so that these arguments can be adapted through collective bargaining to the changing needs of our society and to the changing concepts of the responsibilities of labor and management.[5]

In New York State a similar viewpoint was taken in Matter of the Board of Education v. Associated Teachers of Huntington, an important case which served to enlarge the scope of bargaining in the realm of public education. Here the court decided that:

> Under the Taylor Law, the obligation to bargain as to all terms and conditions of employment is a broad and unqualified one, and there is no reason why the mandatory provision of that act should be limited, in any way, except in cases where some other applicable statutory provision explicitly and definitely prohibits the public employer from making an agreement as to a particular term or condition of employment.[6]

The reasons for the enlargement of the scope of bargaining in New York may be due to a number of factors. Since the strike proscription in New York is strongly enforced and the duty to bargain in good faith does not include the duty to compromise on any specific issue, the effects of enlarging the scope of negotiations may be minimal. In addition, public employers have acquired better negotiation skills over the years, so there is less of a risk that a broadened scope of negotiations would give unions too much power. In addition, PERB may have decided that there are positive net benefits associated with a broad scope of negotiations.

Others have argued that a broad scope of negotiations gives teacher unions a disproportionate amount of leverage over the determination of educational policy. Wellington and Winter argue that the school board may be pressured to give in to union demands since the union may be the most powerful interest group in the community concerning education.[7] Rather than face the threat of an albeit illegal strike which might harm the board members' chances for re-election, these members may make concessions which may not be noted by the community until the decision is irreversible. Alternatively, Clyde Summers has suggested that public employees may be at a disadvantage when bargaining for economic issues, since they are competing against a wide variety of interest groups. He nevertheless concludes that teachers are not at a disadvantage concerning bargaining over curricular issues, since other community groups have infrequently mobilized around such issues.[8] Since school boards, rather than teacher unions, are held publicly accountable to the community, some have argued for a scope of bargaining which reserves the right to make policy decisions to the public employer or school board. Indeed, some courts have concluded that school boards may not bargain away their rights to determine certain policy questions, as this may be construed as being ultra vires, or an illegal sub-delgation of authority.

Scholars also hold varying oponions as to how the appropriate scope of negotiations should be determined. Edwards believes that the case-by-case decision making approach for distinguishing among mandatory, permissive, and illegal subjects of bargaining is preferable to the less flexible approach of legislative limitation, "because if experience proves the initial judgement to be erroneous, it is easier for a state board to reverse itself that it is to get a modification of a state statute in the legislature."[9] Weisberger, on the other hand, cautions that state legislatures should more carefully explore and determine key labor policy priorities, since the lack of such legislative policy may result in inconsistent decisions being made by administrative agencies and the courts. The next section illustrates such inconsistencies in New York State. In addition, however, it describes a trend in decisions made by PERB and the Court of Appeals, due to changing economic conditions, which may justify Edwards' argument that flexibility is a desired attribute in the determination of scope of bargaining.

Past Scope of Bargaining Decisions in New York State

New York State's Public Employee Relations Board has not been entirely successful in drawing distinctions between the categories of illegal, permissive, and mandatory subjects of bargaining. The board's decisions not only indicate a problem in distinguishing mandatory from permissive and permissive from illegal, but they have also left ambiguities between the categories of mandatory and illegal. Generally, in New York State, those issues which concern the "terms and conditions of employment" are considered mandatory, while policy issues are considered non-mandatory since the public employer has the responsibility, and is often held accountable, for making certain public policy decisions. Unfortunately, the two types of issues often seem inextricably intertwined.

The problem of distinguishing between the categories is common to other states. In Massachusetts, for example, the "wages, hours, and standards of productivity and performance" are considered mandatory subjects for negotiation.[10] This definition leaves some ambiguity as to what is to be included within "standards of productivity and performance." A wide variety of policy issues, including curriculum and class size may affect standards of performance. In Wisconsin those bargaining items which are considered a matter of educational policy but which also have an impact on wages, hours, and conditions of employment have been determined by the Wisconsin Employment Relations Commission to be permissive subjects of negotiation concerning policy, but mandatory subjects of negotiation as the policy impacts on wages, hours, and conditions of employment.[11] This approach seems problematic, as will be seen using cases from New York for examples, since it is difficult to separate the union's right to bargain over the impact of the policy from the bargaining over the policy itself.

One example of this is the fact that while class size, per se, is thought to be a policy decision to be determined by the employer (since it is directly related to the mission of the agency), its effect on teacher workload relegates it to mandatory status. In the West Irondequoit Board of Education v. West Irondequoit Teachers Association case an attempt was made to clarify the situation:

> It should be noted that the line of demarcation between a basic policy decision and the impact on terms and conditions of employment may not always be clear. For example, a policy decision as to class size may have an impact on teaching load. At first look, class size and teaching load may seem the same, but as we see them they are not. The first represents a determination by the public employer as to an educational policy made in the light ot its resources and other needs of its constituency. This decision may have an impact of hours of workload and the

> number of teaching periods which are clearly mandatory subjects of negotiation.[12]

In Yorktown Faculty Association v. Yorktown Central School District it was held that a workload demand including a class size factor was a mandatory subject of negotiation. It seems that the distinction drawn in the former case is academic, since an issue such as class size may move from the permissive category to the mandatory category simply by rewording the demand.

Another example, in Matter of John Schwab et al. v. the City Manager of the City of Long Beach et al. the court determined that abolition of positions is an illegal subject for negotiations. Their reasoning is as follows:

> On more than one occasion PERB has held that a reduction in work force for economic reasons does not constitute a term or condition of employment and, so is not a proper subject for collective bargaining . . . (The Court concurs.) Indeed, the court is of the view that it would be highly improper to permit municipal officers to commit a municipality to the continuance of a particular number of employees for a multi-year period despite the economic condition of said municipality.[13]

On the other hand, in the City School District of New Rochelle v. New Rochelle Federation of Teachers, Local #280 the board concluded that while curtailment of services or elimination of jobs is not, per se, a mandatory subject of negotiations, "the employer is obligated to negotiate on the impact of such decision on the terms and conditions of employment of the employees affected."[14]

The question of impact, hence, becomes important for the determination of a demand as belonging to a mandatory or non-mandatory classification. While employers may refuse to negotiate a certain subject, since they consider it a policy issue, the employee union may argue that the subject is mandatory if it has an impact upon the "terms and conditions" of employment. It seems that PERB has not, then, drawn a clear distinction between these two categories. As if to attest to the inadequacy of the classification system, PERB has allowed even the classification system itself to become a mandatory subject of bargaining. The Public Employee Relations Board decided that:

> In reaching the conclusion that the employer had an obligation to negotiate with the teachers on the question of impact, we do not find that there was, in fact, an impact on terms and conditions not covered by the contract between the parties. What we do say is that the teachers should have been afforded the opportunity to state their claim as to impact on terms and conditions of employment not covered by the current agreement, and to have negotiations with the employer concerning their claim.[15]

In substance, PERB is giving employee unions the right to bargain ove whether an issue must be negotiated or not (i.e., whether it is a mandatory or non-mandatory subject of negotiation).

The treatment of those items which relate to basic policy but which also affect wages, hours, and conditions of employment as persuasive subjects of bargaining as to policy, but as a mandatory subject of negotiations as the policy implementation, affects terms and conditions of employment creates substantial ambiguity. This type of definition of scope might indicate that employees cannot put such a high dollar demand for compensation for the impact of a policy decision that the employers no longer feel that it is possible (or cost-beneficial) to implement the policy in the manner in which they had deemed to be in the public's best interests. Alternatively, this classification may be implying that the union can bargain over the impact of a policy in such a way that it is no longer cost-effective to implement the policy (although the employer does not have to give in to the demand), as long as the union does not place an infinitely high price on the demand (i.e., the union cannot bargain over whether the policy can be implemented, but it can demand, for example, that teachers must be paid $1,000 extra if they have to teach phonics). This distinction, however, proves illusory for much the same reason that the PERB's decisions were, concerning the difference between class size as a non-mandatory subject of bargaining and impact of class size as a mandatory subject. This classification system also gives us little information about the weights to be placed on the importance of having a policy decision made by a public official who is held accountable to the public versus the right of an employee to bargain over "terms and conditions of employment."

Another type of problem where PERB seems to have trouble delineating the permissive from the mandatory classification concerns past practices. In some cases PERB has claimed that an issue may be considered a mandatory instead of a permissive subject of bargaining if it has been a past practice for a number of years, since the issue is then considered a term and condition of employment. In the case of Board of Education of the City School District of the City of New York v. District Council 37, AFSCME, PERB confirmed the hearing officer's findings that the practice of granting one-half day off with pay for Christmas shopping had become a term and condition of employment which could not be withdrawn unilaterally, since the practice had been continued without substantial change over ten years. However, the Board's decision was quite the opposite in Queens Borough Public Library v. Local 1321, AFSCME. Here the Board maintained that "a public employer breaches no such duty to an employee organization by virtue of its changing a past practice involving a term and condition of employment over which it has no duty to negotiate with that organization."[16] PERB's statement that "this matter is not inconsistent with our decision in the Matter of Board of Education of the City of New York"[17] seems less than convincing.

It is difficult to discern the rationale for some of PERB's apparently contradictory decisions. One possible explanation of the above inconsistency may have to do with the country's state of economic well-being. One reasearcher has written that:

> The study of scope doctrines at this time is particularly timely since the impact of the widespread national fiscal crises upon public employers

> has generated additional controversy about scope doctrines. On one hand, public employers have been seeking to maintain the greatest degree of flexibility in responding to uncertain economic conditions and changed circumstances and are asserting public management rights and productivity goals more aggressively than in the past. On the other hand, public employee unions have been attempting to protect the job security of the employees they represent by demanding contractual restrictions on the employer's right to cut-back, lay-off, subcontract, or introduce technological changes in the various phases of the public employer's operations.[18]

The conflicting interests may put pressure on PERB which adds to the confusion of the board's decisions. It seems plausible that the board may have changed its mind about past practices between Matter of the Board of Education of the City of New York in 1973 and the Matter of the Queens Borough Public Library in 1974 because it wanted to give the public employer the option not to have to negotiate over an item that was considered a bonus in the past, since budgets tend to get tighter.

This mode of thought seems evident in Matter of the Board of Co-operative Services of Rockland County, which basically overturned the "Triborough Doctrine" as it regarded salary increments after the expiration of a contract. When the economy was booming it was thought that salary increments had become the status quo (which must be upheld by the employer during a hiatus). In the Rockland case, the court noted that:

> In times either of inflation or depression, employees quite naturally will be reluctant to accept abolition of automatic increments which they have been receiving. To the extent that it provides that such increments must be paid even after expiration of contract, the proposition gives an edge and makes negotiation of that point that much more difficult.[19]

In New York there is evidence that political and economic pressures may have preceded such a change in doctrine which tended to strengthen the relative position of the public employer. In March of 1977, three months before the decision of the Rockland case, Governor Carey proposed a change in New York State's public sector collective bargaining laws which would:

> permit employers to change unilaterally terms and conditions of employment at the termination of a collective bargaining agreement if the parties have reached an impasse in their negotiations for a successor agreement. Supporters of this change argue that granting employers the right to alter terms and conditions of employment including reduction of past benefits under these circumstances will be an incentive for earlier settlements between the parties and, failing that, will also make it possible for public employers to respond appropriately to austere economic conditions.[20]

Looking at the apparent inconsistencies in the definitions concerning the appropriate scope of bargaining in New York State from a chronological framework, a trend can be established. The Public Employee Relations Board and the New York State Court of Appeals have tended to increasingly favor the side of the public employer, probably due to the decreasing ability of the public sector to support large budgets. This trend can be seen in the following three areas: the definition of scope of bargaining regarding impact, the issue of whether or not past practices result in making a practice a mandatory subject of bargaining, and the definition of the status quo to be continued during an impasse period.

To review the above-mentioned cases, while PERB concluded that a board must negotiate over the impact of the curtailment of services in 1970,[21] four years later the Court stressed that negotiations with employees over the curtailment of services should not have an effect on municipality's decision to discontinue services.[22] Given the latter decision, employees may be in a weak position to bargain over impact if the employer is still free to take unilateral action over the discontinuation of employee positions. As regards the issue of past practices, the Board is less likely to categorize practices which otherwise would have been permissive subjects of bargaining as mandatory subjects of bargaining solely by virtue of the fact that the practice had become frequent and therefore a term and condition of employment than had previously been true, since such practices may no longer be compatible with increasingly constrained budgets. Finally, in 1975 the New York State Court of Appeals overturned a previous definition of the status quo which must be continued after expiration of a contract. In Matter of the Board of Cooperative Services of Rockland County,[23] the court determined that automatic salary increments would no longer be considered part of the status quo, since this would give employee unions an advantage in the bargaining process and possibly an incentive to reach a point of impasse. However, the recent alteration of the definition of the status quo may substantially weaken the bargaining stance of public employee unions, especially during times of inflation, since employees may settle for lower "real" wages rather than to risk reaching a point of impasse where they may receive even lower real wages.

Recommendations for Change

The economic and political atmosphere surrounding public sector bargaining has changed substantially over the past decade. Consequently, the question of the appropriate scope of bargaining merits reexamination. Two such changes are especially important. First of all, taxpayers are less willing and able to support state and local budgets at past levels of funding. A prime example of this phenomenon is the passage of Proposition 13 in California. Secondly, states such as New York and Florida have begun to allow for greater citizen participation in the negotiation process and a number of other states have begun to adopt similar measures. Due to these developments, Clyde Summers' argument that public employees may be at a disadvantage in competing for a share of the governmental budget due to their high visibility and difficulty in forming alliances appears plausible. Recent trends concerning public sector bargaining in New York State seem to support this hypothesis. If citizens are able to participate in the bargaining process, a wide scope of bargaining may be in order.

While the case-by-case approach for determining scope of bargaining suggested by Edwards may provide the flexibility that is vital during times of changing political and economic conditions, it seems that there is room for improvement in PERB's attempt to define the scope of negotiations. Before attempting to devise a better system of classification in New York State, it makes sense to first look at the manner in which other states have dealt with this issue. The decisions made by the state of Wisconsin's Employment Relations Commission seem to have some logic and consistency which might aid other states to define an appropriate scope of bargaining.

June Weisberger has carefully analyzed scope decisions in Wisconsin in order to determine a rational pattern behind such decisions. She astutely concludes that:

> From the hints given in such decisions, however, it appears that a duty to bargain will be imposed whenever the subject is "suitable" for the bargaining process. In the case of economically motivated managerial decisions, for example, a demand is suitable when union and employer input is likely to result in economies and increased productivity. Where other parties have already negotiated over the controverted subject and have incorporated substantive provisions regarding that subject in their collective bargaining agreement, that fact becomes credible evidence that bilateralism is suitable. On the other hand, a subject is not suitable for mandatory bargaining if there is little or no chance that both parties possess sufficient knowledge, interest, or expertise to contribute to a mutual solution of the problem. To require bargaining is to impose delay and, therefore, extra costs and some diminution of flexibility for management decision making. Weighing the cost attached to delay, on one hand, against the probability that bilateralism will produce a better decision, on the other hand, may be one simple test implicitly used in the past to classify bargaining demands over managerial decisions. This formulation represents a beginning to the difficult task of articulating the factors to be weighed in classifying one group of demands.[24]

It is interesting that Weisberger's analysis seems to be compatible with property rights literature in the field of economics and with the Coase Theorem, in specific. This theorem suggests that if negotiation and information costs are assumed to be zero, and two parties voluntarily enter into a contract (even though it is mandatory that the two parties negotiate, neither party has to compromise on any specific demand), negotiation brings about an optimal solution. Therefore, a wide scope of bargaining may be in order. However, negotiations are not costless. Coase has written that:

> . . . Once the costs of carrying out market transactions are taken into account it is clear that such a rearrangement of rights will only be undertaken when the increase in the value of production consequent upon rearrangement is greater than the costs which would be involved in bringing it about.[25]

However, this is not necessarily true in the public sector since it is difficult to determine the value of "production" and because the public officials who negotiate for their constituents may not be properly weighing the true costs and benefits to the public which are related to any given policy decision.

Consequently, institutions such as New York's Public Employee Relations Board must weigh the costs of negotiation (including delay, which may be significantly high for an organization which is vital to the public welfare) and the costs of information (including the fact that an employer may have better technical skills to approach and make decisions about a certain policy-related problem than the employees) against the employee's right to negotiate over factors which affect "terms and coonditions of employment." However, if negotiation costs and information costs are relatively small and if the issue is of relatively great importance to the employees, then the issue should be bilaterally determined. In this case, since neither side has to compromise over any specific demand, a broad scope of negotiation should, generally, lead to a more satisfactory solution than a narrower scope. For example, with voluntary transactions, an employer may give in to the union's demands concerning X, which worth 4 utils to the employer but worth 5 utils to the employees, in return for Y, which is worth 5 utils to the employer but only 4 utils to the employees. Consequently, both benefit from the transaction. If, on the other hand, negotiation costs or information costs are greater than 1 util for each side, the net benefits of the transaction would be negative.

New York State's present method of defining an issue as a mandatory subject of negotiation if it concerns the terms and conditions of employment is ambiguous and leads to confusion and inconsistency. The real issues seem to be whether or not negotiation over the item will result in positive net benefits for the community and the employees and whether or not the community representatives (i.e., School Board members) amply protect the interests of the community. In some cases, an issue may be deemed unsuited to the negotiations process if it is something that should be decided by those sensitive to community concerns. Therefore, PERB should consider the importance of the sovereignty of the public official in determining public policy versus the right of the employee to negotiate over the terms and conditions of employment on an issue basis. In addition, more intensive examinations are needed regarding the information and negotiation costs involved in collective bargaining in the public sector. Another major problem, the fact that the public official may not be correctly measuring the "utility curves" of his/her constituents (and may actually have an incentive to take a weak bargaining stance with the union), might be best solved not through limiting the scope of negotiations, but by allowing members of the community to attend, or participate in, the actual negotiation process.

Notes

[1] See, for example, Mich. Stat. Ann. sec. 17.455(1) et seq. (1975); New York Civil Service Law, sec. 200 et seq. (McKinney's 1973); Wisconsin Stat. Ann. sec. 111.80 et seq. (1974).

[2] June M. Weisberger, "The Appropriate Scope of Bargaining in the Public Sector: The Continuing Controversy and the Wisconsin Experience," _Wisconsin Law Review_, 1977:685, p. 692.

[3] Ibid., p. 693.

[4] 7 PERB 7544.

[5] Harry T. Edwards, "The Emerging Duty to Bargain in the Public Sector," _Michigan Law Review_, LXXI, April 1973, p. 917.

[6] Ibid., p. 918.

[7] Harry H. Wellington and Ralph K. Winter, _The Unions and the Cities_ (Washington, D.C.: The Brookings Institution, 1971), chap. 1.

[8] Clyde Summers, "Public Employee Bargaining: A Political Perspective," _Yale Law Journal_ 83 (May 1974), pp. 1156-1201.

[9] Edwards, op. cit., p. 916.

[10] Mass. Gen. Laws. Ann. c. 150-E, sec. 6 (1975 Supp.).

[11] Weisberger, op. cit., p. 718.

[12] 4 PERB 3727.

[13] 8 PERB 7544.

[14] 4 PERB 3706.

[15] 7 PERB 3042.

[16] 8 PERB 3109.

[17] 8 PERB 3109.

[18] Weisberger, op. cit., pp. 693-694.

[19] 10 PERB 7018.

[20] Weisberger, op. cit., p. 738.

[21] 4 PERB 3706.

[22] 8 PERB 7544.

[23] 10 PERB 7018.

[24] Weisberger, op. cit., p. 735.

[25] R. H. Coase, "The Problem of Social Cost," in The Economics of Legal Relationships, Henry G. Manne, ed. (St. Paul, MN: West Publishing Company, 1975).

George Shea, Esq.

I have been requested to discuss collective bargaining in public education as it exists today, and how to improve it. I am not sure I can accommodate the request. I have been in the business of representing public school teachers for almost 13 years and I do not believe I have ever seen a true collective bargaining situation in Massachusetts. I clearly have not seen a collective bargaining relationship when representing the faculty of the public colleges and universities of the Commonwealth. I have not seen such a relationship when representing the K-12 teachers of the Commonwealth either. I doubt very much whether a true collective bargaining relationship exists in public education anywhere in this country.

I suggest that today's conference is an excellent opportunity to examine the phenomena we call public education collective bargaining, and in doing so, we might be able to bring what exists closer to the real thing.

The participants in this adversary process of collective bargaining are usually the employer on the one hand and its employees, represented by a labor organization of the latter's choosing, on the other.

The purpose of collective bargaining, at least as I understand it, is to improve the wages, hours, and working conditions of a group of workers, represented by a union, in a defined bargaining unit.

Collective bargaining was not designed to improve education, give the communities' minority groups a voice in operating the public schools, or to allow parents to gain a right to evaluate teachers.

Those of this conference who would use collective bargaining to accomplish these latter goals are not interested in improving collective bargaining, but rather in using whatever vestiges of collective bargaining which have been given to public employees of the Commonwealth for their ends.

If the true purpose of this conference and its attendees is to improve the collective bargaining process in the public sector, we should concentrate on the obstacles that currently prevent the employer and employees from resolving the issues separating them, which are generated from the employees' efforts to influence the conditions under which they are willing to sell services to the public employer and the public consumer.

What we have in Massachusetts and perhaps in the entire public sector of the economy is a kind of a Shakespearean comedy. The public sector employee, including the educator employed at public institutions of learning, have been told that they can go to the bargining table and get an enforceable agreement which could be funded. They could go to the bargaining table and have some control over standards of productivity, in a way similar to his private sector counterpart.

What we have is an academic pronouncement of what should be, and the reality that productivity cannot be negotiated if it involves limiting class size or any other item which a school committee member decides is an educational policy and not an item for collective bargaining. This is true even if that decision is arrived at after the public employees have bargained away other legitimate demands in effort to influence these issues of productivity.

If the public employee objects to this unilateral employer determination and grieves the resulting perceived inequity, he/she is provided with the opportunity to present their "grievances" to the judiciary. Their case is reviewed by a conservative judge sworn in and dedicated to the premises of improving the condition of the establishment and maintaining their status quo against any challenge from the public employee, even if that challenge is authorized under the so-called public sector collective bargaining laws.

These so-called bargaining laws have been cleverly designed to frustrate the process allegedly enhanced by them. The covered employees are unable to determine with any certainty who they are bargaining with on the municipal level. Sometimes we are bargaining with the governor; sometimes we have bargaining with the legislature when they enact legislation establishing caps on municipal spending or limiting municipal prerogatives over employee insurance programs; on some issues we are bargaining with the designated employer, the school committee; but recently, as often as not, we are dealing with the city council or the mayor and sometimes with the president of the largest bank or private employer located in the municipality. One suggesion I would make to create a true collective bargaining situation in the public sector would be to enact legislation which clearly establishes the identity of the public employer, and empowers that employer with the authority to enter into enforceable collective bargaining agreements. This simple right has eluded us for almost 13 years.

A second fundamental aspect of any meaningful collective bargaining relationship would be a definable unit of employees which can engage in that relationship.

I have mistakenly believed that when a certification indicated that one of the Massachusetts Teachers Association's (MTA) affiliates represented all public school teachers employed in a particular school system, the affiliate could take the certification on its face. The establishment and its governmental representatives interested in avoiding even the minimal obligations imposed on them by the current laws, develop legal dialectics to provide them with the run-away shop geographically denied them. These theories, finding administrative, legislative, and judicial approval, deny collective bargaining rights to teachers who are hired, terminated, and evaluated by the same officials as their fellow teachers, but are classified as federal teachers, collaboratives or other euphemisms for the unorganized. If we were to discuss how to improve collective bargaining in education, we could discuss methods of eliminating these artificial distinctions which serve only to deny meaningful collective bargaining for educational employees.

If collective bargaining is ever to exist in public education, a closer mechanism must be created which allows both participants to engage in the process of persuading the other party to their position. The new system cannot deny the employees the right to withhold services or go to a truly neutral arbitrator for negotiation impasse. Nor should the new system allow either a reluctant mayor to mock the process by not placing the school committee's budget requests before the city council, thus frustrating the funding of the committee's collective bargaining agreement, or a state legislature to refuse funding for a collective bargaining agreement which state college and university employees duly arrived at by the designated employer.

If we buy into the popular mythology, we could "improve" collective bargaining by designating more punitive systems to insure that no public employee would ever strike; but could we also speak of designing a system to insure that the citizenry of a particular community would approach the needs of public employees with rationality and equity?

The collective bargainging process in public education could be improved by legislative and judicial action, or inaction, which would allow the parties to solve their employment-related problems of layoffs, retrenchment and changing educational emphasis demanding personnel changes. These problems are not of the teachers' making, and their negative impacts should not be borne solely by them. The public engaged in excesses in education for almost 20 years between the mid-50's and mid-70's. Then, when the novelty of the technological development and the phobia over speedy far-flying Russian satellites had worn off, the public desired to retrench.

The public wants retrenchment at all costs as long as those costs are borne by the public educational employees in the form of unemployment, low wages, and related work place anxiety. The parties must be able to agree on meaningful RIF language or early retirement incentive programs to solve these employment problems. This conference cannot meaningfully discuss these issues because the courts and legislatures have precluded all meaningful agreements designed to resolve such problems.

I, for one, am discouraged. We are at best in a hopeless situation. I cannot envision the relationship between the public employer or public employee as being more peaceful in the near future. I can offer no suggestion to improve the system or to make it more meaningful unless I have the ability to make significant suggestions on how the public employees can meaningfully bargain over the things that are worrisome to employers.

I disagree with the earlier speaker, and I am not going to take up any more of your time talking about collective bargaining. I will answer whatever questions you have about the process from an academic point of view. But I could suggest that you ought not to engage in any fantasy in this room, or any other room, about whether you are talking about an academic model which people would like to extrapolate from and remove from each element or add elements--kind of saying, "Well, in that situation this ought to work or that ought to work." That is all we do when we talk about collective bargaining. If we want to improve collective bargaining, we ought to allow the parties, both of the parties, to work it out. That means that if teachers have to go on strike to improve the wages, hours, or working conditions, so be it. If it means that we have to face the economic and political realities of life, so be it. It means that we have to talk about issues which are uncomfortable, like layoffs, unemployment, cost of living, cost of living escalators. Then we ought to be able to improve the collective bargaining process.

Impact of Collective Bargaining on the Quality of Education

Gregory Anrig

It is a mistake to assume a connection between collective bargaining and quality education.[1] The purpose of collective bargaining is not to improve the quality of education any more than the purpose of collective bargaining in the steel factory, or automotive factories, is to improve the products. Collective bargaining is a process that establishes a formal relationship between management and employees. If you try to give broader goals to that process, you are setting up the bargaining process for failure, because expectations will be created which are unfair to the process. We are asking too much from the system if you make it more than what it is intended to be. To me, collective bargaining allows labor and management to negotiate certain conditions of work, salary, communication, and channels for grievances. Those are the kinds of issues that are provided for in collective bargaining--to improve the relationship between labor and management--not to improve the product. If you look at it from that point of view, then I would have to say that collective bargaining, by and large, has been a success in Massachusetts. If, however, you put that other grid on it, and ask has collective bargaining improved the quality of education, I would then say that collective bargaining has not been a success, because it never was designed to do that. That is not a total failure either; it simply was not designed to do that from the very beginning.

Having said this, I have tried to think of some of the effects the collective bargaining law, now 14 years in existence in Massachusetts, has had. One is that there is now talk of two-way collective bargaining. In all frankness, when the law first went into effect, management was outdone. The strength of collective bargaining was on the labor side, and that was largely because it was a totally new experience for school boards and for most superintendents. Some of the bargained provisions reflected that two-way collective bargaining was not tough enough. This has not been true for the last eight or nine years. By and large, collective bargaining contracts entered into in Massachusetts reflect good effective collective bargaining from both points of view. A second effect of collective bargaining is that, despite the fact that we are an industrialized and unionized state, collective bargaining over a period of time has largely been strike-free. If I counted correctly, in almost seven years since I have been in office, there have been seven teacher strikes in Massachusetts; whereas in a nearby state, they would consider only seven strikes a year to be a miracle. In my mind the reason we have been generally strike-free is that there has been good collective bargaining. Two of the seven strikes were in the city of Boston, alone. That is a credit to both sides of the bargaining table. That does not mean that either side gave up easily. It means that collective bargaining worked the way it was supposed to--with compromise offers back and forth until you reach a point of agreement. If you analyze the effect of those agreements, I think it is safe to say that teachers now have more benefits than they had prior to collective bargaining. The only thing that is not clear to me is whether they would not have those benefits in the absence of collective bargaining. It seems to me that the trends of inflation and competition, at least up to the point of enrollment declines, might have led us down the same road. But it is certainly safe to say that since collective bargaining, the salaries have gone up and benefits have been expanded.

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[1] The following is an excerpt from extemporaneous remarks made by Dr. Anrig.

Clearly, one effect of collective bargaining is that there is more teacher power locally. Teachers have a right to be heard: It is not at the whim of school boards. There is also less paternalism or maternalism in the relationship between teacher and management; and there is more teacher protection from arbitrary action by management--all of these outcomes are sound and of benefit to education as an institution.

An outcome which I do not think was fully anticpated at the time is that quite aside from what has happened locally, very significant changes happened at the state level. Organized teachers at the state level comprise a new political force that was not on the scene, in the same strength, prior to 1965. The State Teachers' Organizations in Massachusetts are major political forces influencing political judgments of the State Legislature, the Governor and other political and state officials. A good example of this was the recent state aid reform. It was largely the result of the Massachusetts Teachers' Association's efforts that the school aid fund was revised in Massachusetts. (I ought to add that there was also strong support from superintendents and school committees.) That was because of very effective lobbying organization. When the bill finally was enacted, legislators came to me and said that that was probably the best-organized lobbying effort that they had seen in any area on any subject during that period of time. At the state level there are now two strong teachers' associations which exercise, rather effectively, lobbying power at the state level. In addition, there are also strong national organizations representing teachers. The American Federation of Teachers has always been well-known at the national level because it is part of the AFL-CIO. This was less true of the National Education Association, but since collective bargaining laws have passed, it also has become a major force at the national and state levels.

Probably another outcome is that parents feel powerless as a result of collective bargaining. Before collective bargaining, parents identified with the teachers, and the PTA was the vehicle for that identification in the communities. Besides a change in economic conditions with parents, part of the PTA's problem today, in terms of active membership is the fact that unions are strongly organized and parents feel locked out of that organization. The former alliance between parents and teachers is now a separate alliance for teachers. I think that is an issue that teachers as well as others have got to deal with, because what is happening is that parents feel blocked out. There is some estrangement that gets aggravated, particularly in strike situations, as we saw in New York City a number of years ago.

On the issue of quality education, I think the only thing that I can sense as the result of collective bargaining is that some of the "sluff-offs"--I am using that as a catch phrase--some of the people who are less conscientious, feel more protected. It is a normal position of the union, either NEA or AFT, to protect its members, whether they are right or wrong. I would also say that I think the number of these people is very small, and that, by and large, the union's protections are also important to people who are doing their jobs well. Those people who are doing their jobs well are protected from the arbitrary actions of management, but I see this protection as a double-edged sword.

In my mind, the test of collective bargaining is ahead of us. That test is most directly going to be felt on the issue of reduction in force. In good faith collective bargaining, both sides may end up concluding that you do have to have reductions in force and in tenured ranks, and in Massachusetts we have already decimated our non-tenured ranks. How those issues are decided is going to have a very key influence on the quality fo education. All of us know that there is a range of quality on your teaching force in any school. When we go into the faculty room there will be rather quick agreement concerning the few teachers who everybody feels are not doing their job. And those teachers know who they are. The question is whether the union will protect a tenured teacher whom other teachers recognize as incompetent, the way it protects the most competent of its members. I think there is going to be a real challenge for unions to find out where they stand on this. It is clear that they are going to have to lose some members one way or another. Do they have a vested interest in protecting the least competent members as much as they do the more competent of them? I am not talking about gradation now; I am talking about the teacher of whom other teachers in the school would say, "Here is somebody who does not show up on the job, or shows up unprepared, who is not doing his work, or really does not like kids, and treats kids in such a way that is damaging to them." You and I know that those teachers are in the schools, and are identified by their colleagues, but not always by management. I think the way in which unions deal with that kind of reality, as well as how management feels about that reality, is going to be a question of straight seniority, then I think both sides would let the kids of this country down.

A second area that will be a test of collective bargaining is the whole area of regaining public confidence. I think that it is in the interest of an organized teacher profession to admit that we lost a lot of public confidence, and to work hard to regain it. That means regaining it not in terms of campaigns on television, but in terms of the relationships between individual teachers and individual parents. The parents must again become convinced that there are people in the schools of our state and country who really do care about their children, who really do work very hard for their children. I believe this is true. Unfortunately, in some cases, parents do not believe it. Teachers must reach out to parents in a way that makes parents feel that they can reinvest their confidence in the schools.

There is a lot of talk about the loss of confidence in public education. Some of that is exaggerated, but much of it is real. All of us in education have an obligation to reach out and try to renurture that confidence. That will be a test of the bargaining parties, and a test of collective bargaining in the years ahead.

Frank Martin

Collective bargaining has improved the quality of education, if only to the extent that it has highlighted the needs and demands of teachers and has examined what is going on in the classroom. However, to what extent collective bargaining has impacted on the quality of education, with respect to the students, is relatively unknown.

There are some people who have sat at a bargaining table or have been in the classrooms for short periods of time, who have now become self-styled "experts" in these areas. They posit that collective bargaining has failed, and that it has not adjusted to society's changing needs. However, I am not convinced that enough data exists to indicate whether the process is, in fact failing, although there is much need for improving the process.

Collective bargaining in education is fairly new. The law mandates that we bargain with respect to hours, wages and working condiditions. But teachers' working conditions also impact, if not directly, then indirectly, on students. It may be that society is putting a greater burden on schools, and therefore on the collective bargaining process, than they are able to carry. It is no secret that teachers and educational systems are being asked to perform roles that were, in in the past, performed by parents, churches, and, to some extent, performed by the police department. Those are very heavy burdens to be shifted onto the educational system, and particularly on the collective bargaining process. Nor am I sure that the collective bargaining process is the proper vehicle to carry those burdens. I am convinced, however, that collective bargaining has an impact on educational administrators, on teachers, and also on the quality of education.

From my own experiences while attending school committee meetings years ago, prior to collective bargaining, there was very little real substantive attention given to innovative, quality educational programs. I do not say this to disparage the voluntary school committees of the past. The members simply did not have the time or knowledge to engage in educational innovations. If you had a gas station attendant who was a school committee member, it was unfair to ask him to come up with an innovative educational idea. That was not his field of expertise. He was a good business man and probably reflected the philosophy of the community. But to ask him to decide educational policy issues was unfair. What collective bargaining did, for the first time, was to allow teachers to have viable input into the decision-making process. This does not mean, however, that teachers or unions wish to run the school system. What we really want to do is increase the ability of teachers to perform the jobs for which they were hired.

Some people want to make a radical change in collective bargaining by implementing multi-party bargaining and greater community participation. However, the experience of more than 40 years of collective bargaining in this country indicated that the process does not lend itself to that kind of expansion. This does not mean that allowing more public participation and disseminating more information is impossible, but to introduce every single vested-interest group in the community and give everyone a role at the collective bargaining table could ultimately destroy the process that we worked so long to get, and it could bring about absolute and utter chaos.

Collective bargaining, as any sophisticated union person or administrator will tell you, is not really a war where differences are irresolveable. Furthermore, as collective bargaining matures, it must become more of a collaborative process. Only then will we be able to address those volatile, educational problems that are afflicting society. And only then will the parties be able to sit down and talk outside of negotiations, without the pressure of reaching a settlement, about the various problems that do impact upon the educational, intellectual and physical well-being of children.

One of the most serious problems besetting American education and the collective bargaining process today is reduction-in-staff (RIF)--a euphimism for that old industrial phrase, "a lay-off." In 1970, my predecessor put heavy emphasis in staff meetings on the issue of seniority, only because to mention "lay-offs" set off such a chain of emotional reaction among teachers in our union. This indicated that some people had never been able to overcome their own subconscious elitism. People thought that having a college degree guaranteed always having a job, particularly in public service. However, the threat of teacher lay-offs made teachers feel insecure. Being laid off is an economic death sentence. Years before, teachers could switch from one system to another if they had any discontent with administration. No longer having that opportunity proved to be a very serious threat.

Seniority is a time-tested, objective method for the orderly dismissal, discharge or lay-off of people, when necessary. However, evaluation should not be tied to seniority during lay-offs. As a union person, I am not opposed--and I know of no other union person who is opposed--to incompetent teachers being dismissed. In fact, we welcome it. If, however, you have incompetent teachers and administrators, and you have had them in the past, then the question that must be asked is, "Why?" You cannot blame the union for hiring incompetent teachers. And the solution is not tying an evaluation procedure in with lay-offs, which, I believe, should be done strictly by seniority. Lay-offs are not the appropriate time to rid the school system of incompetent teachers. We are not saying that you must retain them; we are simply saying, evaluate them. If they are incompetent, there is nothing under the law that precludes them from being dismissed for incompetency. The only burden that the administrator has is to find "just cause" and follow due process.

Questions and Answers

DISCUSSION HIGHLIGHTS

The discussion that followed Anrig and Martin's presentations dealt with the following issues: Has collective bargaining contributed in any way to teachers' disillusionment and frustration; how is the issue of teacher accountability addressed; will teacher unions one day assume responsibility for its members' professional competence; has management's responsibility changed with the growth of collective bargaining in the schools; and finally, how does collective bargaining impact on quality education?--Editor.

QUESTION: Although teachers have had collective bargaining for 15 years, I sense disillusionment and insecurity in spite of negotiated contracts. Teachers are feeling less than satisfied with their profession. I am not trying to blame collective bargaining for this; I just wonder if there might be something about the collective bargaining process that contributes to teachers' disillusionment.

ANSWER (Anrig): If we would conduct a nationwide poll to determine whether teachers feel more secure with collective bargaining rights (than without collective bargaining), they most likely would come out overwhelmingly in favor of collective bargaining. This is especially true of older teachers who worked for a while without collective bargaining. Collective bargaining is a protection for employees who traditionally had no protection other than tenure. So I do not think the unrest and dissatisfaction is a by-product of collective bargaining; I think it is more a by-product of the times.

ANSWER (Martin): First, if teachers are disillusioned and frustrated, one reason is that management has become quite intransigent at the table. When collective bargaining began, management was outdone by teachers. Teachers' unions went to the table with the experience and the desire to negotiate a favorable settlement. However, management became more sophisticated in subsequent years, and began hiring attorneys. In the beginning, management was giving us a great deal in negotiations; now the opposite seems to be taking place. Management has started pushing people right to the wall on minor issues and this, of course, impacts on teachers' morale.

Secondly, it seems to me that society in general has lost confidence in many of its institutions. Implicit in almost all of the discussions that I have heard at this conference is the idea that a community does not even trust its own elected officials on the school committee. That bothers me. It seems to me that society is using public employees in general, and education in particular, as a whipping boy for all the faults and foibles that afflict society. This is not only a mistake in judgment, but also an extremely serious problem.

In 1974, at a meeting in Chicago, I stated that there were elements of the "left" merging with the "right" who advocated alternative school systems, no accountability, no certification, and vouchers. Voucher legislation was proposed in Massachusetts some years ago, but failed. Unfortunately, it is rearing its ugly head again on the West Coast. I really do not know if the East Coast can stay immune to it, anymore than we are immune to the Proposition 13 epidemic. We are experiencing problems that neither the school committees, nor the people, have any control over. Teachers must acquire more power, because that is the only way we will achieve our goals in this society. As Al Shanker has said, we have some common denominators to share with school committees and with parents--the survival and protection of the public school system. This is the time we ought to begin to work together to make the system do what it can do--and that includes fighting for and ultilizing the collective bargaining process.

QUESTION: How do you address the issue of teacher competency and accountability when so many students are failing basic competency tests?

ANSWER (Martin): One of the fundamental difficulties of accountability, whether it is for teachers or for schools, really refers to the question of what are we being held accountable for? Are we being held accountable to teach youngsters who are so emotionally distraught that they are virtually incapable of learning under the present setup? Are we being held accountable for a lack of home study, when a youngster is so unfortunate not even to have a room in which to study? All of these things do impinge on a child's ability to learn.

Teacher evaluation is also a real problem--one that needs further study--but we must focus on what really constitutes evaluation. Evaluation ought to address several issues: does the teacher know his or her course material? We assume, for example, that a teacher's license guarantees this. However, if a teacher is not competent, we ought not to look at collective bargaining, but rather at the institutions that are giving teachers certificates. And if one wants to evaluate teachers on the job, there are evaluation methods and procedures. Unfortunately, some people seem to disregard evaluation once a teacher obtains tenure. That is an administrative failure. Administrators have an on-going responsibility to adequately evaluate their personnel. The union does not want this responsibility; nevertheless, we demand that evaluations be substantive. In the old days, we used to have evaluation procedures that were pulled out of the closet and dusted off whenever they wanted to get rid of somebody. The fundamental problem we have with evaluation is that it does not address itself to the real issue: Does the teacher know his or her subject, and how well is it communicated to the students?

QUESTION: I predict that one day teacher competency will become the unions' concern. Perhaps one day unions will take away the membership of an individual if he or she is not teaching correctly.

ANSWER (Martin): That is an ideal, but it is not going to really materialize in the immediate future. You are not being realistic in asking teachers to supervise and oversee the actions of other teachers for whom they have no responsibility in hiring, in evaluating, in promoting or in firing. As long as rival unions exist, no organization is going to decimate its own ranks doing a job that belongs to management. I wish that this were not true.

However, when the time comes when there is one, large teachers' organization, then you may see a great deal more incentive on the part of the union to oversee the actions of its members in the classroom. But until that time comes, I think that we are really wishing upon a star.

ANSWER (Anrig): That is the number-one challenge to collective bargaining. It is not a question of whether it is going to be resolved, rather it is a question of whether it is going to be resolved through the collective bargaining process. If it is not resolved in collective bargaining, I am absolutely convinced it will be resolved by either legislative or administrative actions. Unions are going to lose a member one way or another. The question is whether the union will defend a member who the organization itself feels is not as good as another member. It is a very tough issue for any union, because the union's bread and butter is holding onto and protecting jobs. The union may have to take a position that it will protect the rights of all members to due process, but it will not "go the full route" in protecting all members regardless of their competence. Of course, no one should be laid off without due process. Even today, there are accomodations made rather quietly in the school districts. With declining enrollments, this issue is going to become a major one, and it will be a major challenge for both of the state organizations (the MFT and the MTA).

QUESTION: In the various sessions today, there seems to have been a different interpretation concerning whom management is responsible for at the district level. Some people say that management is responsible for the education of the children, but that they have very little responsibility towards the staff. Other people have indicated that they feel management has a wider responsibility. What is your opinion?

ANSWER (Martin): I think that management has a responsibility to its administration, to the parents, to the students, and to the community. That is not to say that they no longer have moral or ethical responsibilities to their own staff. But unless you want to return to the age of paternalism, they no longer speak for the teachers in terms of hours, wages, and working conditions. Those issues are negotiated. When the union goes to the bargaining table to represent a teacher, our responsibility is only to the teachers.

In the context of collective bargaining, management and labor have two different constituencies. The children ultimately are management's responsibility, but what the union does will certainly impact on students. Ironically, in the beginning stages of collective bargaining, if not still, many of the teachers' proposals reflected a greater concern for children than ever came forward from school committees, from administrators, or from the communities. It may have been simply because teachers were more familiar with students' needs. If there is a failing in collective bargaining, it is that school committees do not sufficiently utilize their administrators as resource people at the collective bargaining table, but instead rely heavily on attorneys.

ANSWER (Anrig): Once a collective bargaining agreement is negotiated, my definition of management is that, within the parameters of a contract, everything that goes on in the school is subject to the supervision of the manager. So at the school level, the principal is responsible for all activities of all personnel who are in that school, given the limitations, checks and balances of the contract. Frank Martin's answer was appropriate in terms of how a union develops its collective bargaining proposals. The principal does not speak at that time. The employees speak directly to their union organization. But once the policy is set and the contract is entered into, management responsibility is all encompassing.

QUESTION: There is not much agreement on what is quality education. What are some areas of the contract which impact on quality education?

ANSWER (Anrig): One area in a contract which impacts on quality education is class size. In those districts where collective bargaining has made that an issue (in some districts it is not yet an issue), the effect has been a lowering of class size. I personally say that is good. I do not care what the research says. I have not doubted in my mind, all the years I have been in education, that smaller classes are better than larger classes. The only people who are not convinced of that are the researchers. Parents are, kids are, teachers are, and this Commissioner is.

Quality education is an attitudinal issue. It is a relationship, the chemistry between an adult dealing with a set number of youngsters, and that adult's skill to create the settings in which a youngster will be turned on and motivated. But that has nothing to do with collective bargaining. There is nothing in collective bargaining that deals with that. The hours do not deal with that, the salary does not deal with that, the conditions at work outside of class size do not deal with that. So I really do not see how one can connect collective bargaining and quality education, except on the issue of negotiating class size. Perhaps one can make the connection between collective bargaining and contract provisions for in-service education. Also, a teacher's feeling of having control over his or her fate greatly influences job attitude, and job attitude affects how a teacher deals with other people in his or her life, including the kids. Nevertheless, I think we are stretching the normal issues of collective bargaining too far to say that collective bargaining has a direct relationship with quality education.

ANSWER (Claffey): The union attempts to deal with issues of discipline, teaching load and teaching within areas of certification. In the old days, we had people teaching five different subjects. Now a contract guarantees that teachers will teach within their certification area. Furthermore, the grievance procedure has given people a little more confidence to perform well, whereas before, the school committee sat as both judge and jury. Now you have a process, and that process improves teacher morale, which does impact on quality education.

ANSWER (Martin): The AFT contracts provide for the formation of many committees such as: quality integrated educational program committees; curriculum committees; instructional committees; experimental program committees; research committees; student grades committees; safety and health committees; support, service and personnel committees; and teacher centers (which is now a program that is funded federally in conjunction with the Teacher Corps and other nationally funded programs). All of those are obviously educational. I think we have a tendency to even overlook seniority as having an impact on education. Seniority helps to protect the teacher who has many years of experience from layoffs. That is an educational benefit that impacts on the community, for generally the teacher with the most experience will be a better teacher.

The Effect of Collective Bargaining on the Quality of Education

Robert E. Doherty

Logicians sometimes illustrate the logical fallacy *post hoc ergo propter hoc* (after this, therefore, because of this) by telling of the scientific breakthrough brought about by Paracelsus, the enigmatic physician-magician of the Renaissance. Paracelsus, it will be remembered, revived the medieval superstition that healing salve worked better if it were applied directly to the weapons that inflicted the wounds rather than to the wounds themselves. What happened, or so at least history instructs, is that countless lives were saved on the battlefield because of the application of "weapon ointment." The reason for the decline in the mortality rate, of course, had nothing to do with smearing salve on swords and spears. It was rather that direct application to the wound would probably have caused the wound to be-become gangrenous: one of the primary ingredients of the ointment was cow manure.

I mention Paracelsus's remedy because it has a bearing on the topic at hand: the effect of collective bargaining on the quality of education. Sometimes we assume that there are direct causal connections between changes in our social arrangements, whereas in reality they are only associations. It is true, as I will soon try to demonstrate, that collective bargaining in the schools has been accompanied by a substantial decline in student achievement scores and a substantial increase in per pupil costs. What I will not be able to demonstrate, at least not to my satisfaction anyway, is that the one caused the other. The *post hoc* is clear, the *ergo propter hoc* remains cloudy.

I shall use throughout this paper achievement scores as a proxy for quality, recognizing that there are other products of the educational enterprise that cannot be measured by standardized tests. But I also recognize that the fostering of intellectual growth is, or ought to be, the primary purpose of our public schools, and that a substantial portion of that growth is reflected in achievement scores. If we knew how to go about it, we would probably as a nation deploy our limited resources in a fashion best calculated to enhance intellectual achievement. But what if we were then to discover that collective bargaining had gotten in the way of our noble objective, that in pursuing another goal, i.e., self-determination and self-organization in the search for fair treatment, we had frustrated our endeavor to improve quality? Does one give way to the other? Which objective ought to give way? How far?

What if it could be demonstrated beyond a shadow of a doubt that new automobiles would be, say, $500 cheaper if Congress were to repeal the National Labor Relations Act, thereby putting the United Auto Workers out of business? I have no idea whether this sharp reduction in price would be a likely consequence of this dramatic reversal of our national labor policy; indeed, as I will point out later, it probably would not be, but let us say for purposes of discussion that it would happen. How does one weigh this amount of savings to the American people against the loss of all the social benefits to workers we associate with trade unions and collective bargaining?

I raise these questions early on in this paper because I happen to think it a pernicious notion that holds that we *ought* to have collective bargaining because it is *good* for education or, conversely, we *ought not* have collective bargaining because it is *bad* for education. We *do not* know whether it is good or bad, and even if we were to assume that bargaining has a harmful influence on student achievement, we have no notion of the extent of the damage. Nor do we know whether the social good outweighs the social harm, or if there is indeed a negative influence, whether this influence is a permanent feature of collective bargaining.

With all these caveats in mind, I will nonetheless argue in this paper that there is a greater likelihood that collective bargaining contains a potential for mischief than there is that it is a force for good. The evidence behind this rather weak assertion is sketchy, incomplete, and circumstantial. But there is *some* evidence supporting that contention, and I propose to take you for a cautious walk through that evidence.

The evidence is what the data tell us in respect to student achievement and per pupil costs since the advent of collective bargaining. As figure 1 shows, there has been a dramatic decline in student achievement beginning in the middle 1960's, a decline that begins about the same time teachers began to bargain in substantial numbers, and that decline appears to be going on apace. At the same time, per pupil costs as a percentage of per capita personal consumption rose at an equally dramatic rate, though, as figure 2 also shows, we seem to have reached a temporary plateau between 1976 and 1978. The figures on percentage of personal consumption are used because they control for the cost increases attributed to inflation during that period. Another illustration of the dramatic increase in school costs: in 1968, it would have taken the average factory worker 218 hours to derive enough gross income to support a child in a public school with average costs, compared to an estimated 282 hours in 1978.[1]

No matter how much more tax revenue collective bargains may have caused to be poured into the schools, that infusion of new money seems not to have caused any improvement in the learning environment, at least as reflected by SAT scores. Lest it be thought that SAT scores are unrepresentative of the achievement levels of the general school population, I can only point out that during this period there have been similar declines in scores of other achievement measurements: American College Testing Program, Minnesota Scholastic Aptitude Test, the Iowa Test of Educational Development, and the Comprehensive Test of Basic Skills[2]

To be sure, the close historical connection between bargaining and declining test scores does not suggest necessarily that there is a cause and effect relationship. The figures on costs and achievement levels are aggregate figures, and one does not know for certain, therefore, whether there was a connection between increased costs and declining scores on the one hand and bargaining on the other in individual districts. Be that as it may, some of the reasons (excuses?) put forward by school officials and union leaders for the decline in SAT scores are without foundation. It has been argued in some quarters that declining scores are largely the result of increasing numbers of educationally disadvantaged students taking the SAT's; or that the tests themselves have become much more difficult. But Harnischfeger and Wiley have pointed out that the racial and economic class mix has been almost constant for several years.[3] Nor can it be demonstrated that the tests have become more difficult. Research on the stability of the SAT score scales over the past several years suggests that the difficulty scale has indeed drifted. But the drift is downward. Rather than a drop of only 33 points on the SAT verbal scale between 1963 and 1973, for example, Harnischfeger and Wiley maintain that the decline might have been as high as 48 points if the level of difficulty had remained constant.[4]

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[1] U.S. Department of Labor, Bureau of Labor Statistics, *Current Wage Developments*, 31, 8 (August 1979): 42.

[2] Annegret Harnischfeger and David E. Wiley, *Achievement Test Scores Decline: Do We Need to Worry?* (St. Louis: CEMREL, Inc., 1976, pp. 7-68.

There have been several reasons for the decline in student achievement over the past several years that have nothing to do with collective bargaining and union pressure. One thinks, for example, of the substantial decline in the percentage of students taking the more rigorous subjects, such as biology, chemistry, physics, foreign languages, and advanced mathematics. An easy curriculum will take its toll. Also, fewer students are taking advanced English courses, and it is arguable that the way English is taught in many schools these days makes so few demands on students that there can be virtually no intellectual growth. (For those students who find Silas Marner and Macbeth too stuffy, some English teachers, often with the encouragement of school administrators, are substituting Field and Stream and Outdoor Life.) We cannot blame that on the unions.

There is also television, which I do not think Al Shanker invented, nor do I believe he thinks it to be an adequate substitute for good books or stimulating conversations. The point is, of course, that television has had a substantial effect on how we use our time, and it is probably the case that once the initial positive effect of television on children has been dissipated (no later than the third or fourth grade), it begins to have a harmful effect on verbal skill development.

It is also possible that the decline in test scores can be attributed in some part to a general malaise that seems to have permeated our society. One gets the impression that there is less concern these days about style, about wit and grace, about felicity of expression than there was 20 or 30 years ago. Compare the prose style of Jimmy Carter with that of Adlai Stevenson. An indifference to graceful expression in the society at large cannot help but be reflected in the schools. It therefore ought not be a puzzle to us that verbal scores have declined. The schools mirror the society at large; it is a vain hope, I believe, that holds that they shall ever lead.

All of these "forces" have done their part. But my chore is to do some deep thinking on the question of whether collective bargaining has also contributed to the decline. I pointed out earlier that I thought that it had, although I am unsure of the extent, and I remain to be convinced that the decline in test scores must forever be associated with the bargaining process.

Before one could make an authoritative statement on the influence of bargaining on educational quality, one would need to know what mix of resources and what teacher characteristics contribute best to educational achievement. Then one would need to know whether collective bargaining tends to frustrate the proper distribution of those resources, and if they do, to what extent. We have recently developed some notions, based on the several educational production function studies published within the last decade, as to which teacher characteristics and which expenditures ought to be encouraged if the chief goal of education is indeed intellectual achievement. Here is what these studies seem to be telling us:

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[3] Ibid., p. 24.
[4] Ibid., pp. 20-21.

1. Student-Teacher Contact. The amount of student-teacher contact (classroom) is directly correlated with achievement. The more hours a student spends dealing directly with a teacher the more learning takes place, all other variables held constant.
2. Class Size. This is one of the most hotly contested findings of the production function studies. The question is how much of a reduction would be necessary in order to make the venture worthwhile in regard to higher achievement. John Heim of the New York State Education Department has concluded that a reduction in the current average elementary class size by one student would result in an improvement in the reading score by one-tenth of a percentile. With such a small improvement, the effort would hardly be worth it. More recent studies have suggested that a reduction in class size could cause a substantial improvement in reading scores for underprivileged children. But that reduction would have to be so drastic that it would probably be prohibitively costly.
3. Quality of building principal. There are a variety of proxies that researchers use to define quality in this context, the two most prominent being amount of postgraduate education the principal received and a personal characteristic that goes under the general heading of "demandingness." Virtually all studies agree that the quality of the building principal is as much a determinent of student achievement as any other factor.
4. The number of support personnel. There seems to be no connection at all between the amount of psychological and other counseling services a school provides on the one hand and student achievement on the other.
5. Educational hardware. Findings of production function studies suggest that teaching machines, educational television, and other such devices have no effect on student learning. Indeed, the effect is negative if opportunity costs are weighed.

These studies also identify teacher characteristics that may influence student achievement:

1. Verbal ability and socioeconomic background. This is probably the single most important influence on student achievement.[5] Students who study with teachers possessing high

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[5] Anita S. Summers and Barbara Wolf, "Which School Resources Help Learning? Efficiency and Equity in Philadelphia Public Schools," Federal Reserve Bank of Philadelphia Business Review (February 1975), pp. 11-21.

verbal skills and degrees from the most prestigious colleges and universities tend, all other things being equal, to score higher on standardized tests than do those who study with teachers less gifted or who hold degrees from less prestigious institutions.

2. Advanced degrees. Teachers with an earned master's degree tend to engender higher achievement among their students than do those without that advanced degree. Whether the degree is itself a proxy for verbal skills or other human characteristics such as ambition, tenacity, industry, is an open question, however. It is not known whether the subject matter learned while undergoing the training for the degree is the important factor or whether teachers who partake of a rigorous course of study already possess those characteristics associated with student achievement.
3. Maleness. There appears to be a negative relationship between the number of male teachers in a school district and student achievement. This does not suggest that men are by nature not as effective teachers as women, but rather than in the selection process a higher ratio of capable women are hired than capable men. It may also be the case that in the main the more qualified male teachers leave public school teaching earlier than their less qualified brothers, thus skewing the results of production function studies toward a negative male-student achievement relationship.
4. Experience. The evidence suggests that the peak level of teacher performance is somewhere between three to eight years, excepting some variations that can be attributed to subject matter, grade level, and personal teacher characteristics. One production study found that student achievement tended to decline in direct proportion to the aging of the teachers, particularly in those districts when the average experience level was 20 years or more.[6]

I turn now to consider whether there is something about collective bargaining--the process, the dynamic, the outcomes--that might frustrate endeavors to follow the "instructions" left with us by those who have doe educational production function research. But first, let us dispose of those "findings" that seem not to be affected one way or the other by the bargaining process. Unions have little interest in the quality of the principal, for example, although it is conceivable that a too tightly written contract could make it more difficult for an industrious and imaginative principal to exercise his or her talents. Nor do unions have much influence on the purchase and use of educational hardware. In the early days of bargaining there was considerable union interest in bargaining for teacher aides and other forms of paraprofessional assistance. That interest has seemed to be on the wane, however, partly one suspects because tight budgets and other forms of fiscal constraints have made retaining such personnel too costly, and partly because it has become increasingly difficult to show that paraprofessional help is actually all that helpful pedagogically. Neither does collective bargaining seem to have had any significant effect on the teacher-sex ratio. The teacher work force was approximately 65% female to 35% male when bargaining got underway in earnest, and that ratio is approximately the same 15 years later.

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[6] William B. Firman, "The Relationship of Cost to Quality Education," mimeographed (Albany, N.Y.: University of the State of New York, Education Department, 1963), pp. 17-18.

Areas where there might have been some union influence affecting a judicious allocation of resources are the number of teacher-student contact hours, class size, percent of teachers with advanced degrees, and the increase in the experience level of teachers. Some of these bargaining outcomes may not have been for the good. As for teacher-student contact hours, Charles Percy maintains that for the collective bargaining relationships he studied, bargaining contributed toward a reduction of the school day by 30 to 35 minutes. Bargaining may also have been responsible for a trend to have school kept open only the minimum number of days allowed by law.[7] But even without bargaining, there appears to have been a general decline in the number of total hours students and teachers are obliged to be in school (from an annual average of 1,000 to 900 between 1955 and 1975, according to one study),[8] so one ought not put all the blame for shorter work days and work years on the unions.

The evidence on class size is mixed. As figure 3 makes clear, there was a substantial reduction in average class between 1955 and 1975, most of that reduction having taken place after 1965, when collective bargaining began in earnest. This suggests that bargaining may have been a contributing factor in class size reduction. In New York State, class size provisions appeared in 54.3 percent of all teacher contracts in 1976, although the courts had rules that the placing of numerical limits on class size was not a mandatory subject of negotiations.[9]

It was pointed out earlier that class size reduction can affect achievement for some categories of student, but in order for that improvement to be significant, the reduction would need to be drastic. Indeed, the amount of class size reduction required to make it worthwhile pedagogically may be so costly that many researchers working in the area of input-output analysis believe it not to be a realistic policy alternative. Overall, reduction in class size seems not to have brought about the desired results: as class size declined in U.S. schools, so did average SAT scores and other measures of student achievement.

In respect to the degree to which collective bargaining has influenced teacher longevity and increase in the percentage of teachers with advanced degrees, that too poses a difficult cause-effect question. We know, for example, that although only 25 percent of public school teachers held a master's degree in 1961, over 36 percent held that degree in 1976, an increase of slightly over 44 percent.[10] The fact that salary schedules contained in collective bargaining contracts tend to grant greater differentials for the M.A. over the B.A. than do schedules unilaterally imposed by the administration suggests that bargaining may have been responsible for some of the increase in the number of teachers seeking advanced degrees. If the degree can be related to increased student achievement and if it could be demonstrated that bargaining was in some way responsible for the increased number of advanced degrees held by teachers, then this clearly would be an example of a beneficial effect of bargaining. The latter proposition is probable, but as was pointed out earlier, the former is doubtful. One would need to know whether the substantial differential paid for the M.A. caused those teachers who would otherwise not seek the degree to seek it for the salary purposes only, whether there was a pay-off pedagogically for degree holders, and whether institutions granting these degrees did not relax standards in order to accommodate this new breed of degree seekers.

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[7] Charles R. Percy, "Teacher Bargaining: The Experience in Nine Systems," Industrial and Labor Relations Review 33 (October 1979): 12, 13.

[8] Edward B. Fiske, "Study Finds School Children Now Getting Less Instruction," New York Times 4 May 1977, p. 50.

[10] National Education Association, "National Opinion Poll 1960-1976 Annual Survey," mimeographed (Washington, D.C.: National Education Association, 1977), p. 3.

It was pointed out earlier that studies by Firman and others suggest that after a certain level of experience (eight to ten years according to some accounts) the relationship between the age of the teacher and the achievement of students appears to be a negative one. The figures available on the "aging" of the American public school teacher, therefore, do not bode well for public education.

For example, the percentage of teachers 25 years old or younger fell from a high of 17.0 percent in 1971 to 8.5 percent in 1976,[11] the lowest percentage since 1959. The biggest reason behind this reduction in the percentage of young teachers, of course, is the decline in the school population. Schools are not growing so there is less need to hire new teachers. But it might also be the case that teaching has become more economically attractive to older teachers because of the gains made through collective bargaining, therefore reducing teacher turnover in the experienced ranks. Although the overall salary benefits secured by teachers have not been all that significant from 1 to 5 percent over what would have prevailed absent bargaining according to most estimated),[12] the cohort benefiting most from bargaining tended to be the more experienced teachers with advanced degrees. In most instances this was accomplished by providing larger increments for experienced teachers and a greater differential for holders of the M.A., and in some instances by elongating the schedule. In all likelihood these changes would not have come about absent bargaining. No doubt in a field such as public school teaching where there are limited possibilities for salary advancement outside the improvements set forth in the schedule, there must be some assurance that salaries will increase over time if teachers are to be induced to take positions in the district in the first place. The question still remains, however, whether allocating an increasing percentage of salary dollars to the more senior teachers is cost effective.

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[11] Ibid., p. 1.

[12] Alan L. Gustman and Martin Segal, "The Impact of Teachers' Unions," Project No. 4-0316 (Hanover, N.H.: U.S. Office of Education, National Institute of Education 1976), mimeographed; Robert J. Thornton, "The Effects of Collective Negotiations on Teachers' Salaries," The Quarterly Review of Economics and Business, pp. 37-46; Robert Baird and John H. Landon, "The Effects of Collective Bargaining on Public School Teachers' Salaries, Comment," Industrial and Labor Relations Review, April 1972, pp. 4110-417; David B. Lipsky and John E. Drotning, "The Influence of Collective Bargaining on Teachers' Salaries in New York State," Industrial and Labor Relations Review, October 1973, pp. 18-35. Gustman and Segal who studied the teacher salary movement in school districts in 93 central cities conclude that although bargaining appears to have increased the M.A. salary at the maximum experience level by 5 percent, it seems not to have caused any signifcant-improvement in salaries at the B.A. level or for teachers with little experience. The study by Thornton, who also used central city data, suggests that collective bargaining may have increased both B.A. and M.A. minimums by 5 percent and the M.A. maximum by 23 percent. The latter result, however, is weakened by poor controls for nonunion influence. Unlike other researchers, Thornton does consider the possi-

The effect of bargaining on efficiency and productivity in the industrial sector has long been the subject of study and debate by labor economists. Richard B. Freeman and James L. Medoff, writing in the Fall 1979 issue of the Public Interest, suggest that trade unions, rather than performing a monopolistic and generally socially harmful role in the economy, instead foster greater industrial efficiency. The reason behind this beneficial role according to Freeman and Medoff is the influence unions have on wages, which range between 10 to 15 percent above that received by similarly situated employees in organized plants. It is the wage differential that makes it possible for the unionized employer to recruit and retain a higher quality work force than would be possible absent that differential. A higher quality worker has a positive effect on productivity in two ways. First, such workers follow instructions more readily, have fewer absences, and have good work habits. Second, there is a relationship between worker quality and quit rates. Workers of lower quality tend to have unstable employment records. This means substantial resources are used on the training of new recruits and consequently less attention paid to actual production. This is one of the several ways in which high wages tend to force employers toward greater rationalization of operations.

Can the same be said about the effect of collective bargaining in the schools? There is not much evidence that it has. First of all, the effect of unions on teacher salary levels appears to be substantially less than the 10 to 15 percent differential effect in industry. Even if one takes the so-called spillover effect into account, the modest 0 to 5 percent salary difference between organized and unorganized districts is probably not sufficient to induce a more highly qualified group of individuals to undertake the the training that would

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bility that unionized districts may have had higher salaries than nonunionized districts before collective bargaining, thus making it difficult to determine whether the wage gains could be attributed mostly to union or nonunion influence. The Baird and Landon study analyzing bargaining outcomes in 44 medium-sized school districts concludes that bargaining resulted in a differential of approximately 5 percent at the B.A. minimum. The authors do not control for opportunity wage, legal environment, or comprehensiveness of the agreement, however. The Lipsky-Drotning analysis of salary schedule changes in New York school districts at the B.A. minimum level, the B.A. plus 30 graduate credits at the seventh step, and the B.A. plus 60 credits at the eleventh step found few union effects. For rural districts (1,000 to 2,000 students), however, there was a 1 percent effect for the first group, 2 percent for the second and 3 percent for the third.

qualify them for teaching positions, particularly at a time when the market for teachers is shrinking so rapidly. It is an interesting question just what salary improvements would be required to bring about a marked improvement in teacher quality. One suspects that the public's interest in bringing about that improvement would not be enough to prevail over its interest in keeping tax rates at a reasonable level.

It is also probable that collection bargainingg has not had much of an effect on "rationalizing" educational delivery methods. The incentive for doing so is far less keen that it is in industry since the educational "firm" has something close to a local monopoly on the provision of the educational services and it rarely faces the grim prospect of being forced out of business. Clearly, the aggregate figures shown earlier on per pupil costs and achievement scores do not point to a circumstance where school management has made the most out of an unwelcome situation by rationalizing production, as did many managers in the industrial sector.

It was argued by some in the early days of bargaining that bargaining would be responsible for a "considerable improvement in morale." I quote myself from a study Walter Oberer and I published in 1967,[13] an admission that ought to provide some leavening for the prognostications contained in this paper. I thought at the time that improvements in salaries, the introduction of grievance procedures, and all the other improvements in the working life of teachers we attribute to bargaining would surely make teachers feel better about themselves and their work. It turned out that I was far too optimistic. Figure 4 shows a distressing picture. To be sure, the figures are aggregate figures, and it is conceivable that teachers in organized districts feel somewhat better about their work than do teachers in unorganized districts, although I doubt that to be the case. Even if it were the case, it is not likely that collective bargaining slowed down the drift toward a sense of disenchantment that seems to have gripped so many numbers of the teaching profession. It does not bode well for the public schools that so many of these teachers with 25 to 35 years' service remaining should begin to voice regret about their occupational choice. One cannot help but wonder what effect such an attitude must be having on the achievement of their students. One wishes that collective bargaining could be responsive to this development, for surely we shall not have quality education, no matter how that elusive expression is defined, if substantial and growing numbers of teachers are registering disappointment that they had not taken up another line of work.

So what does the evidence tell us? It probably says that collective bargaining has not been an unmitigated force for the good in respect to educational quality. But neither do we know whether it has had a deleterious effect, although there is some evidence that suggests it might have had such an effect. Assuming that it may have had a harmful effect, the question remains whether it is endemic to the process. A larger issue is whether matters of educational quality and the right of educational employees to bargain can or ought to be kept separate. It was not argued in 1935 that the Wagner Act would result in better or worse automobiles. The argument then was whether workers should be granted the right to bring their collective strength to bear on matters affecting their employment arrangement. The national policy arrived at was based on the assumption that enlightened self-interest on the part of both labor and management would provide the assurance that there would be no loss of product quality as a result of bargaining. Do the parties to a bargain in the public schools share a similar concern? In the short run (and the short run is all we have to go by), probably not. But we are at the beginning of a long pull, and it is the long pull that matters. Although the parties may have momentarily lost sight of the larger issue--the health of the educational enterprise--I am persuaded that they will before long begin to focus on it again. I speak partly out of hope, perhaps mostly out of hope, but logic tells me that in spite of much evidence to the contrary, the same sort of enlightend self-interest that prevails in the private sector by-and-large will emerge in the schools. If the product market cannot exercise the same sort of discipline in the schools that it has in the private sector, then perhaps a public aroused by increasing per pupil costs and declining achievement scores can discipline the parties. That would help reverse the trend.

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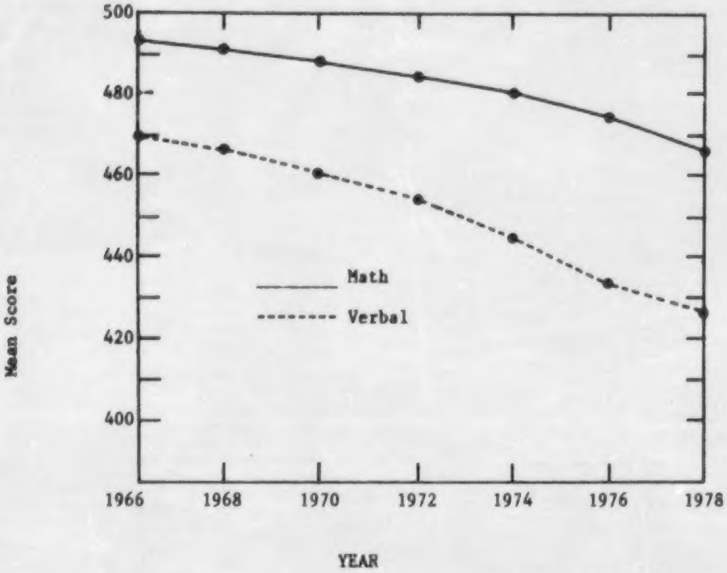
[13] Robert E. Doherty and Walter E. Oberer, Teachers, School Boards, and Collective Bargaining: A Changing of the Guard (Ithaca, N.Y.: New York State School of Industrial and Labor Relations, 1967), p. 122.

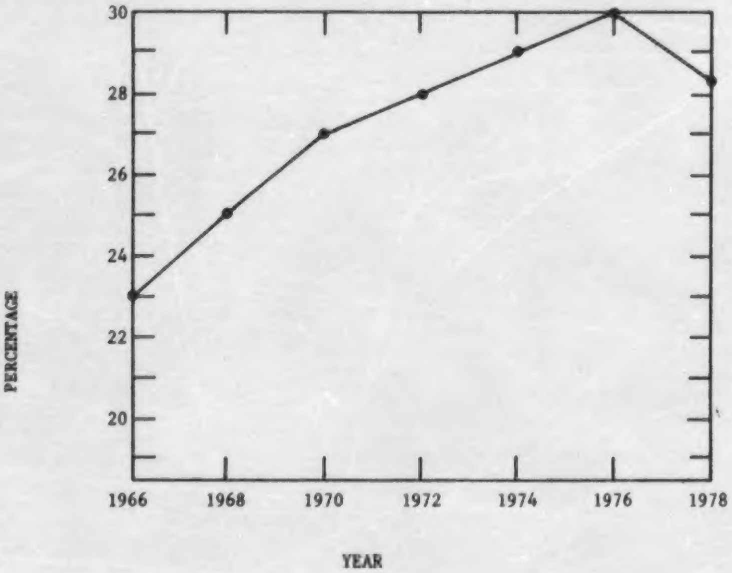
But that will not do the full job. As I tried to point out at the beginning of this paper, although the evidence on declining achievement is clear, the role collective bargaining has played in that decline is anything but clear. I believe it may have been a contributing factor, but I do not think bargaining is at the core of the problem. There are other forces at work in our society that share a larger portion of the blame.

Fig. 1



Source: SAT Scores--1966 Figures: Author's Estimate; 1968-1976 Figures: College Entrance Examination Board, On Further Examimination: Report of the Advisory Panel on the Scholastic Aptitude Test Score Decline (New York: College Entrance Examination Board, 1977)("Each Candidate is counted only once, using latest score earned [Figures for 1967 through 1971 are estimates; for 1972 through 1977 are actual]."); 1978 figures: "Scholastic Aptitude Test Scores Drop as 10-Year Trend Goes On," New York Times, September 9, 1979, section 1, p. 36.

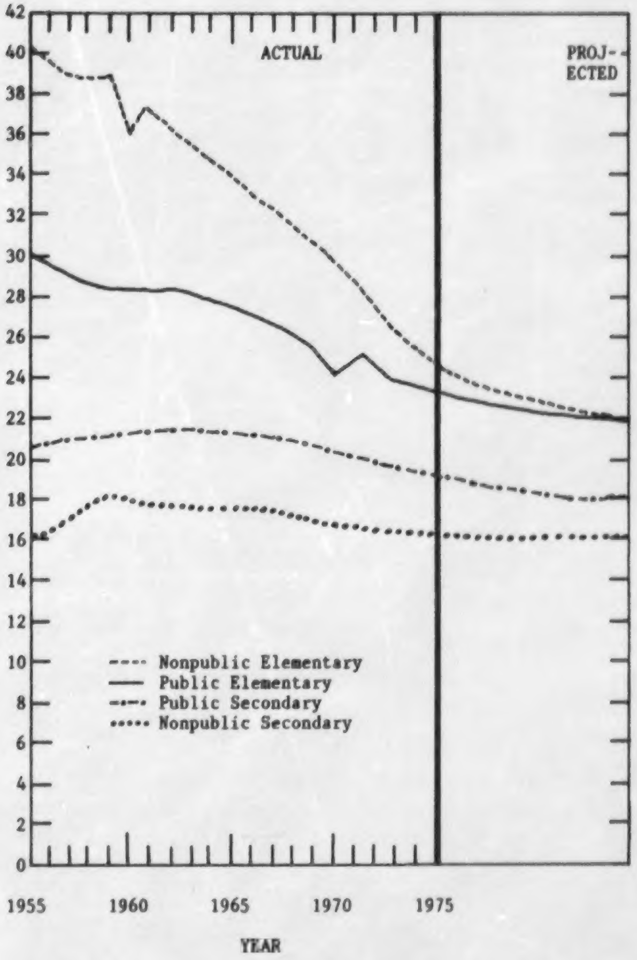
Fig. 2



Per Pupil Expenditure for Public Elementary and Secondary Education as a Percentage of Per Capita Personal Consumption.

Sources: U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, Digest of Education Statistics, 1979 (Washington, D.C.: U.S. Government Printing Office, January 1979), p. 80. U.S. Bureau of Economic Analysis, Survey of Current Business LIX, No. 7 (July 1979), p. 70.

Fig. 3



PUPIL-TEACHER RATIOS IN ELEMENTARY AND SECONDARY SCHOOLS, 1950-75

Source: U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, The Condition of Education: in the United States together with a Description of the Activities of the National Center for Education Statistics (Washton, D.C.: U.S. Government Printing Office, 1976), p. 129.

Fig. 4.

PERCENTAGE OF PUBLIC SCHOOL TEACHERS WHO RESPONDED THEY "WOULD" OR "PROBABLY WOULD" BECOME TEACHERS IF THEY "COULD GO BACK TO (THEIR) COLLEGE DAYS AND START OVER AGAIN

	1965-66	1975-76
Total	78%	63.6%
Men	63.3	52.3
Women	84.7	69.2
Age		
Under 30	76.7	64.3
30-39	75.7	57.6
40-49	76.7	66.1
50 or more	82.6	71.3
Elementary	84.1	
Secondary	71.4	56.3
District Size		
Large	74.2	61.8
Medium	79.6	63.9
Small	78.9	65.5

Sources: National Education Association, Research Division, The American Public-School Teachers, 1965-66, Research Report 1967-R4 (Washington, D.C.: National Education Association, 1967), pp. 99-100; National Education Association, Research Division, Status of the American Public School Teacher, 1975-76 (Washington, D.C.: National Education Association, 1977), pp. 273-74.

Reactors

Rose Claffey

As Dr. Doherty said, getting hold of his paper is something like getting hold of a greased pig. The presentation came as a great disappointment to me, because I have been a great fan of Professor Doherty for a long time and used to use his '67 text like a Bible. So to find that he has changed his views came as a shock. There are still areas in which we do agree, but there are many areas of disagreement. The Rand report on education and collective bargaining also takes exception to many of the research findings Dr. Doherty quoted.

In the concluding paragraph of his 1967 text, entitled Teachers, School Boards and Collective Bargaining, Dr. Doherty stated:

> Teachers have always talked professional status. Ironically, they may achieve this status by first learning how to act like militant trade unionists, thus securing the economics base that will allow them to concentrate on professional problems. Whether they succeed in making this transition or merely continue to preserve the trade union route is a matter almost beyond conjecture. The undisputed fact, however, is that teachers are beginning to assert a much greater influence on how our schools are run, and we are witnessing just the beginnings of this movement. Nor is there likely to be any turning back. If teacher leaders and school officials learn to use this development wisely, it may prove to be the most therapeutic educational development of this century.

That is quite a contrast to the statement that "collective bargaining contains a potential for mischief than there is that is a force for good." He did, however, give himself an out when he said that "the evidence behind this rather weak assertaion is sketchy, incomplete, and circumstantial."

I cannot buy the relationship of collective bargaining to SAT scores. I have read all the literature on SAT scores and have seen no evidence that indicated a relationship between declining SAT scores and collective bargaining. To the contrary, in Illinois, for instance, teachers are organized and very actively engaged in collective bargaining. Yet Illinois SAT results show state scores well above the midwest and national averages. The Illinois math scores average 511, more than 40 points above the national average of 467, and they have remained constant all through the 70's. Verbal scores in Illinois are also far above the national average.

SAT scores are declining, and we all admit to that. On the other hand, collective bargaining is moving along another path. The two trends happen to be occurring within the same time span without relation to one another. Agreement exists on the fact that money costs have gone up. Per pupil costs have gone up considerably. For the first time in history salaries and fringe benefits are approaching realistic figures, buildings and supplies have improved. Everything is better all the way around. So the costs are going to go up.

Achievement scores have been used throughout Dr. Doherty's paper as a proxy for quality. Those of us who have been in school work know the great controversy over the interpretation and use of achievement test scores. They should be only one indicator; they should not be used as the large measure.

On the characteristics that contribute most to good education; we do agree with student-teacher contact, and we think that collective bargaining has helped in this area. We found that prior to collective bargaining many teachers were assigned classes outside their area of certification. Now we are finding that most people teach within their certified area. Furthermore, teachers have been relieved of non-professional duties and so have more time to meet with students. The number of contact hours, the number of different preparations in the subject, and the number of subject areas assigned to one teacher have all been included in the collective bargaining contract. The conversion of "potty patrols" and other non-professional time into professional preparation and teaching time have been very meaningful. Along with contact time, class size, too, has been a major factor and one of the most difficult factors to negotiate. Even where class sizes are ideal, there has been a great unwillingness to include them in contracts. And so class size, although it is a priority item, will continue to be difficult to negotiate.

In terms of support personnel, Dr. Doherty referred to the relationship between psychological/counseling services and student achievement. I would ask,"If there is no relationship, why not?" Certainly such services should have an impact on the performance of children. More than that, the definition of support personnel should be expanded to include speech therapists, hearing therapists, reading teachers, and the like, whose work represents significant gains in the progress of individual students. Dr. Doherty has further stated that teacher aides and para-professional assistants are on the wane because of profits and the difficulty of showing that para-professionals actually help. This isn't true. The collective bargaining of para-professionals is on the increase. It appeared to be on the decline for many years because the National Education Association would not accept para-professionals in their organization. But this past year they changed the rules, and I think we will find an increased movement in this direction. We have found that para-professionals have been a tremendous benefit, particulary in work with children with special needs. Most states now have extensive programs dealing with the handicapped and are using para-professionals on almost a one-to-one basis in many situations.

On salaries: Dr. Doherty has written off the salary gain. He said that 10 to 15 percent actually has been gained. Yet in Boston in 1966-67 the bachelor's degree ranged from $5,500 to $9,300 in eleven steps, and a master's degree ranged from $6,000 to $9,800 in eleven steps, while this year in Boston the bachelor's degree ranges from $11,751 to $19,716 in nine steps and a master's degree from $12,697 to $20,931 in nine steps. Tht is typical of what is appearing in most of the cities throughout the Commonwealth. With higher salaries has come greater competition for the jobs, and with collective bargaining have also come career increments and severance pay which have stabilized the teaching force considerably. Prior to collective bargaining we did receive a substntial differential for the master's degree. However, one of the benefits of collective bargaining has been to extend the schedules from not just a master's degree but a master's plus 15, a master's plus 30, and even a doctorate. This allows people to plan programs. Prior to collective bargaining we had vast numbers of people who were simply collecting courses, occasionally as many as the equivalent of a bachelor's degree plus 150 hours. The extended salary schedule, on the other hand, has enabled people to plan their career and even come out specialists when they might otherwise have been stalled in the business of course selecting.

In '67 Dr. Doherty said that improved salary schedules, the introduction of a grievance procedure, and improvements in working conditions would make teachers feel better about themselves. Today he expresses regret that after 20-25 years, vast numbers of teachers do not feel comfortable in the profession. The Rand Report, however, indicates that people are very comfortable in their jobs and happy where they are. Morale is high. In retrospect, some people believe they might have made a change had they known earlier of other opportunities available to them. Years ago the only choice for women in starting a career was to be a nurse, secretary, or teacher. Theirs is a discomfort of the times.

In my mind the most valuable thing we have gained in collective bargaining is the grievance procedure. Our problem is that most people do not understand the value of a grievance procedure. I have actually gone to bargaining sessions where people have suggested we trade the grievance procedure for X number of dollars. They have no idea of the millions of dollars the grievance procedure is worth. Our traditional subservience, the begging posture we used to assume before school committees who sat as judge and jury over our work lives, ought to prove the worth of the grievance procedure and entire bargaining process. We have impartial decisions today. Yet we still have not learned to use that grievance procedure or negotiation process as we should.

In 1967, Dr. Doherty presented the five top bargaining priorities among teachers of elementary, junior high, and high schools. Number one at each level was class size. Number two at the elementary and junior-high levels was discipline, and it was number three at the high-school level. The salary was number four in the elementary, three in the junior high, and four in the senior high. A very interesting item he found in that survey was annual student promotion; it was number three at the elementary and number four at the junior-high level. Clerical help was number three at the high school and number five at the elementary and junior high. And it's funny, these five top priority issues from the 1967 survey have remained among the most difficult to negotiate.

Now Dr. Anrig said yesterday that to expect collective bargaining to improve the quality of education is asking too much of the system. This is probably true. We have made significant strides in salary, fringes and working conditions. However, as Dr. Doherty indicated earlier, it is a mutual document that emerges from the Table. And if and when we can get both teachers and administrators alike to agree to enlarge that scope, then we will expand quality education. As I said yesterday, our position has always been that we should negotiate any conditions under which children go to school and teachers teach. I would submit to you that the surface has not yet been scratched. The real test of collective bargaining is still ahead. When the parties want quality education included, it will be encompassed in the conract.

Miles E. Galvin

I am impressed by Bob Doherty's paper, but am troubled by the conclusions. He walked us through the evidence in very orderly, cohesive fashion and we cannot reject what he has to say out of hand.

Back in the 1960's, many people, including Doherty and myself, were utterly convinced that collective bargaining could contribute to teachers' being more satisfied with their jobs, and that this in turn would almost automatically enhance education. Doherty's appraisal a dozen years later that the quality of education has declined and that collective bargaining may have contributed to that decline is discouraging to say the least. I was anxious to see collective bargaining associated with an increase in educational quality. It is small comfort to hear his conclusion that collective bargaining should not be singled out as the sole factor associated with the decline. Not having collective bargaining indicted as the only villain does not compensate for bargaining not being hailed as the hero.

Back in the days when I was anticipating that teacher unionism would be good for both teachers and teaching, I took for granted that collective action for teachers would compel school boards and school administrators to involve teachers in educational policy decisions. Even Wellington and Winter, two of the most critical critics of collective bargaining in the public sector, assumed the same involvement although for different reasons. They presumed that any intelligent public administrator, as a matter of course, would consult with professional staff. It turns out, however, that neither of these presumptions was valid. Administrators have not been forced to consult, nor have they done so voluntarily. The scope of bargaining has steadily narrowed in many jurisdictions. Legislators and judges have rarely permitted the scope of negotiations to expand into educational policies. The Supreme Court of New Jersey recently went as far as to prohibit bargaining on educational policy even among consenting adults (the "permissive" area of negotiations was eliminated). Therefore, it seems to be a very bum rap that blames teachers for the decline of education, a process about which they are largely prevented from bargaining.

The resistance to expanding the scope of negotiations is especially frustrating when we recall what Maslow and others long ago demonstrated: those elements that are extrinsic to the actual job--elements such as wages, hours, and certain working conditions, which are generally outside the scope of bargaining--have a lot to do with making employees more pleased with themselves and with their work. There is even some evidence to suggest that, like contented cows, satisfied employees are not only happier but also more productive than are dissatisfied cows or employees.

Now, that begs a question. If employers, including school administrators, are aware that they can increase both the satisfaction of teachers and the efficiency of the enterprise by forgetting about managerial prerogatives and encouraging rather than discouraging employee involvement in decision-making, why are employers reluctant to take advantage of this double benefit? I suspect the answer has something to do with ultimate power in society, and I am reminded of a homeowner who hired a young man to mow his lawn. They agreed on a wage of $10. The homeowner had to leave to go shopping, and when he returned he found the young man reclining under a shade tree and another young man mowing the lawn. Obviously curious, he inquired what was going on.

The young man with whom he had originally contracted said, "Everything is all right. I have sub-contracted with a friend of mine to do the job." "How much are you paying him?" asked the homeowner. The answer was $15. "I don't get it. I am only paying you $10," he said. The young man responded, "Don't worry. It's worth $5 for me to be the boss." I hope the moral is clear. Many employers in and out of schools are willing to sacrifice productive efficiency in order to retain unilateral administrative control. My point is that enlarging the scope of bargaining may not guarantee an increase in student achievement, but not enlarging the scope of bargaining will certainly guarantee no effect at all.

Another of Doherty's premises is that the fostering of intellectual growth is or ought to be the primary purpose of our public schools. That premise has proved unrealistic. The mission of most schools over the past ten or fifteen years has expanded far beyond that to include social integration and custodial care for more young people for additional years. It could be, therefore, that student achievement and collective bargaining have no causal relationship or even association with one another: instead, both may be consequences of the forces that brought about overriding changes in the nation's schools.

Doherty also mentioned that the verbal ability and socio-economic background of teachers may be significantly related to teaching and that the quality of the institutions from which teachers receive their degrees might be the most important variable of all. In this connection, we know that productivity increases in private industry are achieved in two ways, neither of which is cracking the whip. One way is to invest more money in technology. The other is to invest in human resources, that is, in training and skill development. Our toilets flush better not mainly because plumbers' job security and wages have been enhanced by collective bargaining, but because the technology of plumbing has advanced and the apprenticeship training of plumbers has improved.

Teaching, and especially college teaching, is an occupation for which training is haphazard at best. I agree with Doherty that teachers' unions could do a lot more to resist the mis-education of teachers. Over the last twenty years I have advised hundreds of students, and I am dismayed by the continuing complaints of bad teaching. That dismay is compounded by the obliviousness of the teaching profession and schools of education to these complaints. In sum, I think that teacher training is a major variable in subsequent student learning.

Doherty speculated about just what level of salary improvements would be required to bring about a marked improvement in teacher quality, and he voiced the suspicion that the public's interest in bringing about marked improvement would not be enough to prevail over its interest in keeping taxes at a reasonable level. I think he hit the nail squarely on the head. There is no doubt in my mind that we can probably get significant increases in student achievement any time society decides to change its priorities. I do not agree with Doherty, however, that we have been putting inordinate amounts of money into education. Relative to other industries, support for education has been minimal.

One final comment: Doherty concluded that not only has collective bargaining probably not been good for education, it has not even been very good for teachers, at least in terms of either salaries or morale. He notes that, according to the research, organized teachers are paid only zero to 5 percent more than unorganized teachers. That would barely cover union dues. Furthermore, collective bargaining is alleged not to have slowed the sense of disenchantment felt by teachers. I do not find the research persuasive. If collective bargaining has such an insignificant impact on teachers' salary, teacher morale or on education itself, it is very difficult to account for: (a) the resistance of school administrators to teacher unions, and (b) the loyalty to their organizations that most teachers consistently manifest. The source of resistance as well as loyalty probably lies in the enormous importance of grievance procedures in protecting teachers from arbitrary and capricious management. Despite the research findings, teacher unions and collective bargaining must be doing something right--for teachers themselves if for no one else.

Donald B. Frizzle

Dr. Doherty has presented a perspective with which all of us have to deal, whatever our school system. It is the perspective from which we view our half-full cup as half empty. For myself, in spite of six years as negotiator for my school committees, I am still optimistic, though I do agree with Dr. Doherty in part. Collective bargaining does have the potential for mischief on the side of both parties. Nonetheless, I still think of collective bargaining as one possible pathway to educational improvement and quality.

The problem is in the goal: Everybody seems to have his or her own view of what is meant by "quality." We ought to have some clear and common goal; we ought to have some measure against which to judge our progress. We should not judge ourselves against some mythical guideline that says we are not making it.

I think it very important to start with the aims of education. The first one in Massachusetts is that every learner should get the basic skills needed for communication, perception, evaluation and conceptualization of ideas. Among the most important skills the Commonwealth emphasizes are reading, writing, speaking, and visual as well as computational skills. The second goal of education is promotion of the learner's physical and emotional well-being, especially as they relate to a sense of personal worth and control over one's own destiny. The third goal of education is to foster and stimulate in each learner the natural desire for life-long learning, and to develop in her or him the skills necessary to fulfill that desire.

I am very proud of my own school district. We have taken those Massachusetts goals and flipped them around. Our first goal is not the basic skills. The first goal in my district is the development of a natural desire for life-long learning, and education in my district is viewed as a continuous process going well beyond grades K-12. We believe that if each child is unique, each child has an individual capacity for growth. And each school has a responsibility to meet the expectations of those individuals as they continue to mature and grow. That means no single test, no standardized measure of achievement can possibly judge what each child is receiving in terms of his or her own self-worth.

Dr. Anrig called education a matter of chemistry. I think he is right. I think quality education has a great deal to do with teachers' attitudes toward their students, and a great deal to do with students' attitudes towards themselves. Self-esteem certainly has a great deal to do with the way children learn and the way they feel about school. Of course, the quality of education is also affected by material things, by the things around us and the environment we create. That environment includes the school building, the classroom, the materials available. It also includes people: staff assistants, principals, administrators, and parents. But it is the teacher who establishes the immediate learning environment of every student.

Therefore, the climate we create for teachers influences the type of environment teachers create for students. Childrens' experience and success in education depend to a degree on the teachers' training, but they also depend upon the total teaching experience. And that involves class size, teacher evaluations, adequate salaries, merit recognition, professional leave time, and research and development opportunities, all of which go into the creation of a climate in which teachers want to learn, to expand, to change, and to understand children better.

Last summer I attended a conference on education and teaching at the University of Iowa. There I heard enumerated three factors appearing wherever there is excellence in education. The first factor is a teacher evaluation process, designed to help teachers improve their teaching skills. Also present in every system where there is excellence is a program development process to define the educational program, determine its goals and objectives, and evaluate its progress toward these goals. Teachers are integrally involved in this process and have a good deal to say about its operation. Third and last is a staff development program to help teachers identify the needs of the general educational program and to help them meet those needs. With these three factors present there is, at least, the potential for excellence present as well. And as far as I am concerned, all of these factors should be part of the bargaining process.

I am tired of professional negotiators, hired guns, insisting that there is only one way to negotiate on one set of negotiatble items. Teaching is not just hours, wages, and working conditions. And the educational process needs the protective balance of both teachers' unions and school committees discussing all the issues that affect children's lives. There are school committees that deserve attack and the heaviest-handed approach, because there are school committees resistant to children's changing needs. Likewise, teacher groups that drag their collective heels and refuse to change after forty years of doing the same thing deserve to be challenged and made to bargain some critical innovations. I think collective bargaining can be a tool to make that happen.

I call for a broader view of collective bargaining and one in which we do not restrict ourselves to the industrial model. We are dealing with children's present and future lives, not with a Ford automobile or bottle of Pepsi-cola. I think the cooperation of teachers and parents and management is vital. The table is one place for that cooperation to exist. It is not the only place; we should be working in every possible area. However, if teachers, superintendents, and school committee members can sit down and discuss matters aside from typical collective bargaining items and make their discussion work, I see no reason why they cannot do the same thing at the bargaining table. I agree with Dr. Doherty that we are all at the beginning of a long pull. We are only new at this, and we are learning as we go along. But, I think we ought not to close our minds simply because "professionals" in the collective bargaining field would say that certain issues are none of our business.

Of course, there are people in the community, too, who tell us in public education to stick to our business and just teach our students to add and read. In fact, some of those who look at public education from the "New Right" believe there is nothing the public sector can do--short of national defense--that the private sector cannot do better, including education. Their consequent promotion of private institutions, coupled with the anti-tax movement, lends support to tuition-tax credit legislation, leaner school budgets, stripped-down curricula, traditional teaching methods, more testing and flunking, textbook censorship, and an all-out attack on organizations representing teachers in the public schools. We have to be ready to answer the "New Right" claims. I think the bargaining table is the place to do it.

Rebuttal Robert E. Doherty

One point that I think all three of the speakers made--Galvin most recently--is that I put too much emphasis on so-called intellectual growth that can be measured by standardized tests. They are the only way that I know that is available to give us some estimate as to how well a school is doing, given the purposes of public education in this country--that is, to teach reading, writing and deciphering. My own notion is that this ought to be the schools' primary business. I do not think I said in the paper that that ought to be its only business, but that it is the primary business of the schools and it is also the sort of thing for which we can test. The educational establishment all over the country are finding that test scores are going way down and costs are going way up until they say, "Well, it's not important, it does not matter. We are doing other things, like teaching good manners." I think that they are dead wrong, and that this is a "cop out." Teaching is the primary business of the school and we are not doing it well. I think this is a critical matter, and I think that collective bargaining has some influence on that. The trick is to bring the interests of the parties involved in collective bargaining in conformity with the interests of the nation that says we should use sources wisely and productively.

In reference to Rose Claffey's response to my paper--it sounds as though I did change my mind about some things. I am not embarrassed about that at all. Claffey points out that teachers are now able to concentrate on their areas of specialty, and I think that is good, just as I think it is good that they do have more preparation time. However, the evidence does not suggest that beyond the kind of self-satisfaction that this gives teachers, that the ability to concentrate on one's subject matter or have more preparation time has actually resulted in higher student achievement, as reflected in the measures that I think are important for measuring such achievement.

On the question of salaries, this is a point that Galvin and Claffey both made. Claffey makes the point that salaries have increased in the Boston schools since the early 1960's. It has been a very dramatic increase. The point is, how have salaries increased in schools that do not bargain? The figures I give are based upon some very careful studies that I looked at on the 0% to 5% differential between organized and unorganized districts. If you want to look at the Boston schools, you ask if they are 5% better, or more, than similarly situated unorganized school districts. If they are 10, 15, 20% more, that means that bargaining is a payoff. It is comparable to the bargaining that goes on in the industrial sector. But if it is only 5% more on the outside, then the unorganized school district has to raise some questions as to the importance of collective bargaining. Galvin questions that if that is all collective bargaining is doing for organized teachers, how come they are still loyal to the organization and why do they keep paying their dues and going to meetings, and hit the bricks occasionally? I do not know the answer to that. It may be the data are wrong, or maybe people are loyal to an organization because they see improvement within their organization from year to year and are not looking at comparable information between themselves and unorganized and organized sectors.

Certainly the grievance procedure is one of the things that has resulted from collective bargaining, and it is an enormously important social invention. The unions have been so successful that, in the absence of bargaining, there are a number of unorganized industries, particularly in the state of Michigan, that do have grievance procedures that end up in arbitration with an outside arbitrator. In our university (Cornell), our non-professional employees are not organized, but they have a grievance procedure and it ends up in binding arbitration with an outside arbitrator, or someone chosen from the staff, and that decision is final and binding. That is one of the interesting movements in industrial relations. In fact, the unions might have been too successful in teaching that "gospel," for even unorganized people are now getting the most important single benefit in collective bargaining without having to pay dues for it.

One other minor point, and that concerns the question of policy formulation. Everybody says, "Gee whiz, you ought to get teachers involved in policy; we can do that best through the collective bargaining table." However, the collective bargaining process is an adversarial arrangement and sometimes the best policies do not result from adversarial relationships. It seems to me it is possible to set up separate forums for policy formulation, as has happened in many areas, and use collective bargaining for the more narrow issues of wages and salaries, working hours and fringe benefits, etc. In the schools, public policy is an important issue. The teachers' union and school administration are establishing public policies in a collective bargaining environment, and therefore, excluding the participation of that large body of people who also have a very important concern about what emerges from those discussions. Most people that I know of do not like to find out that policy has been made in the privacy of a collective bargaining room and they are faced with a fait accompli. Collective bargaining in the public sector, and particularly in the schools, is a form of law-making that will govern not only the relationship between the employees and the employer, but also the welfare and well-being of many students, taxpayers and citizens. There are those who are arguing that that makes it important that the scope of bargaining be narrowed to those areas that are of primary economic interest to the parties as against the social benefits and public policy issues that might follow from them. I do not know where I stand on that.

Questions and Answers

DISCUSSION HIGHLIGHTS

Some of the issues discussed following Doherty's address and the panel discussion which followed were: what role, if any, should parents/taxpayers play in the collective bargaining process; does the economic environment affect teacher morale; and how can student achievement be improved?--Editor.

QUESTION: When parents demand public access to collective bargaining, management responds, "No, your place is not at the table." Then we say, "Public policy must be made at a public meeting," and they say, "No, it should be made at the collective bargaining table." Since parents are both the consumers and payers of the service, where do we fit in?

ANSWER (Don Frizzle): I think the parents and the public ought to have a great deal more knowledge of what goes on during collective bargaining. Perhaps more direct access is needed. Many parents, and this is symbolic of our society, do not fully trust their elected representatives. Many elected officials are not communicating very well with the public. I would favor collective bargaining being more open and having parents, at least, present. I am not sure whether they should be a "party," because the school board is supposed to be their representative.

ANSWER (Doherty): I waffle all over the place on that issue. Disenchantment with public officials does exist. However, I am not persuaded that collective bargaining is indeed the only appropriate forum for resolving our differences of opinion on some important policy issues. It seems to me that there are other forums, other opportunities for doing that. For example, the engineers' unions tend to bargain very narrowly over terms and conditions of employment, for they have other opportunities to deal with their professional concerns with their employers. It seems to me we ought to have the wit in education to develop a mechanism where teachers with expert knowledge can have influence in their specialties. But at the same time, we should not use the adversarial collective bargaining forum for this. When you get into the area of policy, there are other parties who do care, who are concerned and who have a right to influence policy. I do not know how representative a board of education is once it enters collective bargaining. Is public influence somehow blunted when you have to deal across the table with someone who is perhaps willing to inflict mischief on you if you do not agree with them? There is something about bargaining that tends to blunt the public influence at the time that it really matters.

ANSWER (Miles Galvin): It is important to remember that in the beginning there was only one occupant at the table, and that was the school board and school administration. Teachers got a place at the table, not through pleading or collective begging, but by organizing. I suspect the same thing will happen with other community groups. When you get tired of collective begging, organize and have enough power to get a place at the table, you will get one, probably not before.

ANSWER (George Sulzner): I think the public is already represented by the school board, which also has control over management. If you have a problem, it is a problem with the school board. If they are elected officials, you can do something about that in the electoral process. I am not sure citizens need representation independent of the representation they already have through an elected school board.

QUESTION: One thing that struck me about Doherty's presentation was that it was entirely outside of the context of the 1960's and the 1970's. There is a distinction between these two periods in terms of real support for education, and I would expect that teachers who face reduction-in-force would have the same type of morale problems that the 13,000 steelworkers have at U.S. Steel who just get their walking papers. I am disturbed that this whole discussion of collective bargaining and the quality of education was outside of the economic context, and the fact that education can expect a reduction in support and resources.

ANSWER (Doherty): First, I do not know whether we are singling teachers out for their sense of disenchantment, and whether that dienchantment is any greater than lawyers, doctors, engineers, and other people who say, "Dammit, I wish I had done something else for a living." Secondly, on the question of lay-offs, the people who are most disenchanted are not those who are immediately susceptible to layoffs. The most disenchanted are the people who are 30-40, who have 6-7 years of seniority and who are not going to "get the ax."

ANSWER (Claffey): I am not sure that we are looking forward to 30 years of problems. The statistics seem to indicate that the births will be on the upswing and that by the mid-1980's, we will be having teacher shortages again. This is not unlike what we went through in the late 1930's; we had a real problem after the war when teachers were very scarce. Furthermore, in terms of layoffs, I am amazed at the lack of dismay among teachers whose layoff is at hand. I took some time to question people who were in that category, and I find that industry has suddenly come to a realization that teachers have much to contribute. Extensive forums are being held for potential candidates for industry, and the rewards that are being offered far exceed anything they were ever offered in teaching. The department of education also has a service to help with resume writing and will give teachers tests to determine what they are qualified to do. Many teachers have found that they now consider their layoff a blessing in disguise.

QUESTION: Dr. Galvin, you said that once the public was willing to come up with the money, the students' achievement level would rise. I am not sure how you were defining achievement level. If you were using the definition regarding standardized test scores, how do you deal with the argument Christopher Jenks raises in Inequality of Education, that no matter how much money you pour into education, the effects on standardized test scores are going to be minimal?

ANSWER (Galvin): My response would be that not enough money was given in the right way for a long period of time. Many years ago when we placed a human being on the moon, I was teaching a labor education class and all of the workers in the class were employees of a firm making washing machines. We closed down the class and watched in awe. When we returned to the classroom, I said, "It is amazing that our technology is such that we can put a man on the moon, but we cannot make a washing machine that will work for 6 months without breaking down." And as usual, you learn a great deal from your students. A union steward said, "Look, if you place as much money in making washing machines as you do in rocketry, I will make you a washing machine which will wash your clothes, dry them, and go in orbit around the moon." I really respect not only American know-how, but technological know-how. I really believe that if we have as a national priority, peace and progress, rather than war and a war economy, we can improve anything. It will take some time, we will have to do some very serious thinking about it, and it will not mean simply "throwing dough" indiscriminately. It will mean getting our heads all together, but it can be done. We have never seriously tested that proposition.